

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: CHICAGO TRANSIT AUTHORITY,) OEIG Case #17-00162
THOMAS McKONE, and ERIC)
McKENNIE.)

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report’s factual allegations or legal conclusions before the Commission.

The Commission received this report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Executive Inspector General for the Governor, the Chicago Transit Authority, and to Thomas McKone and Eric McKennie at their last known addresses.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

FINAL REPORT

I. INTRODUCTION AND ALLEGATIONS

On February 1, 2017, the Office of Executive Inspector General (OEIG) received an anonymous complaint alleging that the Diversity Programs (Diversity) Department of the Chicago Transit Authority (CTA) had recently sought to hire a Diversity Specialist and that a candidate was chosen for the position. The complaint alleged that there was a meeting to discuss the redistribution of work to this selected candidate; however, the selected candidate was not given the job. Instead, according to the complaint, the Director of Diversity, Mary Person, was forced to hire Eric McKennie as a Diversity Consultant in early 2017, and it was rumored that he was given the job because of his wife’s position as a state legislator. The complaint stated that Mr. McKennie had bragged about being at the inauguration with his wife in Springfield. The complaint

also alleged that Mr. McKennie seemed to come and go as he pleased, so his hire did not decrease the workload within the Diversity Department at all.

II. BACKGROUND

A. CTA Hiring Laws

Unlike most other employees under the OEIG's jurisdiction, CTA employees are not subject to the Illinois Personnel Code, which establishes a merit-based system of personnel administration for most positions under the Governor.¹ Rather, the Metropolitan Transit Authority Act (MTA Act), which created the CTA, requires that the Chicago Transit Board (Board) classify and adopt its own rules governing appointments to all offices, positions, and grades of employment within the CTA on the basis of merit and efficiency, except for the Chairman of the Board, Executive Director, Secretary, Treasurer, General Counsel, and Chief Engineer.² The MTA Act provides that "job title[s] shall be generally descriptive of the duties performed in [those] job[s]."

The MTA Act distinguishes between employees who are in regular and exempt³ employment, where employees in regular employment may only be demoted or discharged "for cause which is detrimental to the service."⁴ Regular employees who are demoted or discharged may file a complaint with the Board within 10 days of the demotion or discharge, and the Board shall grant a hearing on the complaint within 30 days of filing. Exempt employees, on the other hand, are non-union, at-will employees and are not entitled to a hearing under Section 28 of the MTA Act. The Board has the discretion to deem offices, positions, and grades exempt for the efficient operation of the CTA's business, so long as the total number of employees occupying exempt positions does not exceed 3% of the CTA's total employment.⁵

The MTA Act provides that "[n]o discrimination shall be made in any appointment or promotion to any office, position, or grade of [regular or] exempt employment because of . . . political . . . affiliations."⁶

B. CTA Diversity Department

¹ See 20 ILCS 415/2.

² The MTA Act governs the appointment of persons to these six positions. See 70 ILCS 3605/22, 24, 27.

³ In 1997, the Illinois General Assembly amended the MTA Act to create a class of exempt employees within the CTA. Public Act 90-183 (1997). Prior to this amendment, the MTA Act did not distinguish between regular and exempt employment. Exempt employment under the MTA Act is not to be confused with employment that is exempt, in whole or in part, from the Illinois Personnel Code.

⁴ 70 ILCS 3605/28.

⁵ Pursuant to CTA Ordinance 007-102, the Board delegated the authority to maintain and change the exempt, at-will list of positions to the CTA President, with the approval of the General Counsel. Ordinance No. 007-102 (Sept. 12, 2007), *available at* <https://www.transitchicago.com/file.aspx?DocumentId=2806>. According to the CTA's website, in the Fall of 2017, the CTA had 9939 employee positions. See CTA Facts at a Glance, <http://www.transitchicago.com/about/facts.aspx> (last visited Mar. 7, 2018). As of February 2017, the CTA had 298 at-will, exempt employees, which, assuming the number of employee positions stayed consistent, accounted for just under 3% of the CTA's total employment.

⁶ 70 ILCS 3605/28.

Federal law requires that the CTA administer a Disadvantaged Business Enterprise (DBE) Program to ensure nondiscrimination in the award and administration of federally-funded contracts and to promote contracting opportunities for minority and women-owned small businesses.⁷ Under the DBE Program, the CTA is required to establish DBE participation goals, certify the eligibility of DBE firms, and ensure that contractors and subcontractors are performing work on federally-funded contracts in accordance with federal laws, regulations and policies. At the time of the allegations, the CTA had designated Ms. Person as the DBE Liaison Officer, who was responsible for implementing all aspects of the DBE Program.

As Director of Diversity, Ms. Person was also responsible for overseeing the CTA's Diversity Department, which is based at CTA headquarters at 567 West Lake Street. At the time of complaint, Ms. Person had five direct reports: [Employee 1]; [Employee 2]; [Employee 3], who [identifying information redacted]; [Employee 4], who [identifying information redacted] and Project Consultant – Diversity Eric McKennie.

C. Eric McKennie

Eric McKennie began CTA employment on November 28, 2016, as a Project Consultant – Diversity, an exempt position. Mr. McKennie resigned from the CTA effective March 20, 2017, citing personal and family issues.

At all times relevant to the complaint, Mr. McKennie resided in the same household as Illinois State Senator Kimberly Lightford in Maywood, Illinois.⁸ Senator Lightford is serving her third term in the Illinois Senate after winning her reelection bid in November of 2016.

III. INVESTIGATION

The OEIG's investigation focused on whether the CTA's hire of Mr. McKennie violated CTA hiring policies or applicable hiring laws. The OEIG also investigated whether Mr. McKennie engaged in time abuse or otherwise violated CTA timekeeping policies. As part of its investigation, the OEIG reviewed hiring documents, email communications, visitor logs, employee tap records, and timekeeping documents, and conducted interviews of several current and former CTA employees.

A. The OEIG's Investigation Of The CTA's Hire Of Eric McKennie

1. CTA Hiring Policies and Practices

The CTA's hiring policy, AP 151, governs the administration of all CTA personnel actions, including hiring. AP 151 is designed to ensure the selection of the most qualified individuals and

⁷ See generally 49 CFR Part 26.

⁸ The OEIG performed a limited records check, but could not confirm whether Mr. McKennie and Senator Lightford were in fact legally married. However, the OEIG's investigation revealed that Mr. McKennie listed on his resume and on several CTA personnel documents that his current residence was property owned and inhabited by Senator Lightford, according to Cook County property records.

“ensure compliance with all applicable State and federal laws including those which prohibit discrimination based on political considerations.”⁹ Generally, AP 151 requires that the CTA post positions, develop structured interview questions, interview candidates who meet the minimum job requirements, and have senior managers sign off on a staffing authorization form, authorizing the hire.

The CTA has also developed a salary band structure, which sets salary ranges for all non-union positions.¹⁰ Salary bands range from A to T, where the higher the band letter, the higher the salary range.¹¹ According to AP 151, under certain circumstances, CTA Executives, including department heads, “may explore career opportunities with and interview applicants for positions at or above the level of [Salary] Band I outside of the procedures as described in [AP 151].”¹² Further, AP 151 permits the CTA to not post a position that is being filled at the level of Salary Band I and above, “if deemed by the Vice President of Human Resources to be in the best interest of the [CTA].”¹³ In the case of a new position, the CTA Executive would work with HR to develop an accurate position description.¹⁴

a. Standard Hires

The OEIG interviewed [Employee 5], [Employee 6], and [Employee 7] to learn about CTA hiring practices. [Employee 5] described the standard hiring process as outlined in AP 151,¹⁵ explaining that generally, when a hiring manager wants to fill a vacant position, the manager will solicit HR’s assistance to develop a position description, salary range, background information, and submit a position request. He said the position request is presented for approval to a hiring committee,¹⁶ comprised of personnel from HR, the Budget Department, and representatives from the President’s Office. Alternatively, he said if the hiring manager determined there was a need to create a new (not vacant) position, the hiring manager works with HR to create a position description and request approval from the hiring committee. [Employee 5] said once the hiring committee approves the position request, the HR recruitment section, led by [Employee 6], posts the position on the CTA’s website for a period of time—typically 14 days.¹⁷

⁹ Letter from Forrest Claypool, President, CTA, to Ann L. Schneider and George Ranney, Jr., Co-Chairs, Northeastern Illinois Public Transit Task Force (Sept. 25, 2013) (on file with the OEIG) (echoing the purpose statement in AP 151 in responding to a Task Force question about whether the principles of the U.S. Supreme Court ruling in *Rutan v. Republican Party of Illinois* apply to the CTA’s employment).

¹⁰ See Ordinance No. 001-66 (Apr. 4, 2001) (on file with the CTA) (authorizing the President of the CTA or his or her designee to develop and administer a salary administration program for exempt employees that, among other things, revises exempt salary structure ranges).

¹¹ See Spreadsheet Listing CTA’s Salary Bands for 2016 (on file with the CTA). The Spreadsheet shows Salary Band A as the lowest salary band and Salary Band T as the highest.

¹² AP 151.III.F. Screening and Selection of Applicants at or Above the Salary Level of I.

¹³ AP 151.III.E. Job Posting Requirements.

¹⁴ AP 151.III.F. Screening and Selection of Applicants at or Above the Salary Level of I.

¹⁵ During his interview, [Employee 5] also described two other types of hire governed by collective bargaining agreements, which do not apply to this case.

¹⁶ During this investigation, various witnesses and documents also referred to the hiring committee as the position control committee. For the purposes of this report, the OEIG will refer to this committee as the hiring committee.

¹⁷ [Employee 6] told the OEIG that jobs are generally posted anywhere from two weeks to 30 days and were preprogrammed to automatically come down once the posting timeframe expired.

[Employee 5] explained that an assigned HR recruiter receives and reviews applications for any posted position, removes any patently unqualified applicants based on the position requirements, and recommends top applicants for potential interview to the hiring manager. [Employee 5] said the HR recruiter is responsible for scheduling in-person interviews and that, generally, the HR recruiter meets with the hiring manager to determine the core competencies for the position—each competency having predetermined questions associated with it. [Employee 5] stated that in-person interviews are conducted before an interview panel comprised of the HR recruiter, the hiring manager, and two other individuals¹⁸ and that each interviewer signs a nepotism policy acknowledgment form¹⁹ confirming that the interviewer and the candidate are not related. [Employee 5] stated that interviewers score interviewed candidates based on a five-point scale, and then meet to determine the top-ranked candidate by consensus. He said that the HR recruiter fills out a recommendation form based on that consensus.

b. Direct Hires

[Employee 7] and [Employee 5] also described the direct hire process, both stating that under certain circumstances the CTA can hire a person, bypassing all the hiring procedures outlined in AP 151, provided that person meets all the job qualifications. [Employee 7] stated that generally, direct hires are positions that an executive would recruit and make hiring recommendations for. [Employee 5] stated that AP 151 allows for direct hires if the position is a Salary Band I or above, adding that it is “super rare” that this will happen. [Employee 5] clarified that although direct hires are not specifically referenced in AP 151, his understanding was that references to Salary Band I in the policy referred to direct hires.

[Employee 7], [Employee 6], and [Employee 5] each explained that AP 151 gives [Employee 7], [identifying information redacted], the authority to directly hire individuals into Salary Band I positions and above, without posting the positions on the CTA’s website. [Employee 6] said that the CTA’s Chief Administrative Officer, Thomas McKone, could also directly hire individuals into positions Salary Band I and above, clarifying that, as [Employee 7’s] boss, Mr. McKone could suggest directly hiring someone. Similarly, [Employee 7] stated that, although AP 151 did not give Mr. McKone the express authority to make exceptions to the hiring process, a direct hire will usually come from Mr. McKone and that, as his boss, Mr. McKone could direct [Employee 7] to deviate from the hiring process on the basis that it is in the best interest of the CTA. [Employee 6] estimated that, from January to July 2017, the CTA directly hired approximately three or four individuals, adding that direct hires are usually put into positions higher than Managers—usually Project Consultants or Chiefs. During her interview, [Employee 6] accessed the CTA’s HRIS database and confirmed that, according to the active employee list as of July 24, 2017, there were seven Project Consultants at the CTA; all seven were Salary Band I, and none of the positions had been posted. [Employee 6] was not aware of what job duties Project Consultants performed.

¹⁸ [Employee 5] did not know how the two other members of the panel were selected.

¹⁹ Prior to candidate interviews, interviewers sign a form attesting that they do not have a personal relationship with any of the interviewees, pursuant to the CTA’s Code of Ethics and fraternization policy, AP 1603 (collectively the CTA’s “nepotism policy”). [Employee 5] referred to this form as a conflict of interest form.

According to [Employee 5], direct hire applicants must apply but not in the usual manner, and direct hire positions would not necessarily go to the hiring committee for approval. [Employee 5] explained that generally, persons hired into direct hire positions will have the approval of the CTA President's Office, and the ultimate approval of the committee recommendation would be the CTA President's Office, so the position would essentially be pre-approved. He stated that when a direct hire completes an application, at that point, that person is already conditionally hired, subject to background checks, and the application serves as the first step in the hiring process. [Employee 5] stated that it would be best practice to have a completed job description before a person is hired into a position. However, he stated that the position description for the direct hire may or may not be finalized at the time the application is submitted, because his department relies on the cooperation of the hiring department. He also stated that his office does not have the authority to stop the direct hire process due to a job description not being completed.

[Employee 5] was not sure if direct hires are interviewed prior to receiving offers of employment. He was also unaware of any particular direct hire recommendation form other than a staffing authorization document, which is required of every CTA hire. [Employee 5] stated that for direct hires, his unit could be asked to make a salary recommendation, in which case a market survey for similar positions would be done. Alternatively, he stated that the salary could be dictated to his office by the Vice President of HR or above. He stated that the practice of dictating a salary is not set by AP 151, and he did not know if the practice was written anywhere.

B. Interview of Eric McKennie Concerning the Circumstances of His Hire

The OEIG interviewed Mr. McKennie on September 20, 2017, regarding the circumstances of his hire at the CTA. Mr. McKennie could not recall when he started working for the CTA but stated that he coordinated outreach events in the Diversity Department. When asked if he applied for the position he held at the CTA, he said he must have applied because he obtained a position. When asked what position he applied for at the CTA or what position he held at the CTA, he stated he could not recall, explaining that, at the time, he just needed a job and had applied to a lot of places.

Mr. McKennie stated that he could not recall completing an employment application at the CTA, whether he interviewed for the CTA position he was hired into, or whether he applied for any other positions at the CTA. He said he spoke to several individuals at the CTA during the course of his hire, but he could not recall who he spoke to at the CTA. When asked specifically whether he spoke to Director of Diversity Mary Person or Chief Administrative Officer Thomas McKone prior to working at the CTA, Mr. McKennie stated that he could not recall. When asked to whom he reported during his CTA employment, he stated he could not recall the name of the "young lady."

C. Interview of Vice President, Community Relations Gerald Nichols

The OEIG interviewed CTA Vice President, Community Relations²⁰ Gerald Nichols on

²⁰ Mr. Nichols indicated that in March 2017, the CTA separated Community Relations from Legislative Affairs & Government. Prior to this separation and at the time of Mr. McKennie's hire, Mr. Nichols was Vice President, Legislative Affairs, Government & Community Relations.

June 13, 2017, regarding his role in the CTA's hire of Mr. McKennie. Mr. Nichols stated he knew Mr. McKennie and that he first met Mr. McKennie in the mid-1990s when Mr. McKennie worked for the City of Chicago and he (Mr. Nichols) worked for Cook County. Mr. Nichols also stated that he knew Mr. McKennie's wife, Kimberly Lightford, and that he believed she was a state legislator.

Mr. Nichols told OEIG investigators that he had not been in contact with Mr. McKennie for about 10 years, until recently. He stated that in the fall of 2016, he ran into Mr. McKennie, either at an event or walking on the street, and Mr. McKennie inquired about job openings at the CTA. Mr. Nichols recalled that Mr. McKennie told him that he was leaving State employment and was looking for a job.

In contrast, during Mr. McKennie's OEIG interview, investigators specifically asked Mr. McKennie about his relationship with Mr. Nichols. Mr. McKennie stated he could not recall if he knew anyone named Gerald Nichols and did not recall speaking to anyone named Gerald Nichols who worked at the CTA. Asked again two separate times whether he knew anyone named Gerald Nichols, Mr. McKennie stated he could not say whether he knew anyone by that name.

According to Mr. Nichols, when he ran into Mr. McKennie, he advised Mr. McKennie to send him his resume, which he did. Mr. Nichols said he reviewed Mr. McKennie's resume and determined that there were no positions in his department for Mr. McKennie. However, he stated that he checked the CTA's website and found a DBE Manager job posting.²¹ Mr. Nichols said he contacted Mr. McKennie over the phone and advised him to apply for the DBE Manager position. Mr. Nichols stated that he informed Mr. McKone and Ms. Person about Mr. McKennie, telling them that he advised Mr. McKennie to apply for the supposed DBE Manager position, and subsequently emailed them Mr. McKennie's resume.

When investigators asked Mr. Nichols what about Mr. McKennie's resume made him think that Mr. McKennie was a good fit for the Diversity position, given that his resume did not specifically note any experience in DBE programs, Mr. Nichols recalled that when he spoke to Mr. McKennie in the fall of 2016, Mr. McKennie mentioned that he (Mr. McKennie) was involved in workforce matters and outreach in his position at the State. Mr. Nichols asserted that his only involvement in Mr. McKennie's hire at the CTA was sending Mr. McKennie's resume to Mr. McKone and Ms. Person. He stated that he did not direct anyone to hire Mr. McKennie, and he did not know if Mr. McKennie or anyone else at the CTA was hired because of political affiliation or political connection.

D. September 6, 2016 Email

²¹ Based on the documents the CTA provided to the OEIG, there were no DBE or Diversity Manager job postings during this period. Rather, in the fall of 2016, the CTA posted three Diversity positions: Project Specialist II, Diversity Specialist, and Senior Compliance Specialist, *after* Mr. Nichols had sent Mr. McKennie's resume to Diversity Programs Director Mary Person and Chief Administrative Officer Thomas McKone on September 6, 2017. The OEIG requested Mr. Nichols's emails received from or sent to Mr. McKennie, including any attachments, to determine the timing of Mr. Nichols's job-related communications with Mr. McKennie and clarify which job posting Mr. Nichols could have been referring to in his OEIG interview. The CTA could not locate any emails responsive to the OEIG's request.

The OEIG reviewed a September 6, 2016 email from Mr. Nichols to Mr. McKone and Ms. Person (September 6 email). The email had an attachment that included Mr. McKennie's resume.²² The body of the September 6 email stated, "This is the person we spoke about." The email did not reference any DBE Manager position.

E. Eric McKennie's Prior Experience

a. Work Experience

The OEIG obtained a copy of Mr. McKennie's resume from the CTA, which did not specifically reflect any experience working in DBE programs. Rather, his resume reflected that, prior to working for the CTA, Mr. McKennie worked for seven years as Senior Project Manager in the Illinois Department of Transportation's (IDOT) Office of Business and Workforce Development²³ (OBWD), acting as a liaison between the OBWD Director, other state and local government agencies, and the general public; serving as a OBWD spokesperson; coordinating information and bureau-wide activities dealing with budgetary, socioeconomic factors, and policy development; and performing special assignments for the OBWD Director.

Prior to working at IDOT, Mr. McKennie's resume reflected that from 2006 to 2009, he worked as Assistant General Superintendent for the City of Chicago Street Operations Department, where he managed and supervised staff as they cleaned city streets, vacant lots, and abandoned properties. His resume also reflected that he held various other positions while working for the City of Chicago in the Street Operations Department, Department of Transportation, Department of Aviation, and City Council, as well as working for a trucking company in the City of Cicero. His resume reflected experience organizing community meetings and events while working as an Administrative Assistant for the City of Chicago City Council from 1995-1999.

A third-party background search conducted for the CTA prior to Mr. McKennie's hire revealed discrepancies in the job titles listed on Mr. McKennie's resume and the verified job titles Mr. McKennie held. For example, the background search revealed that Mr. McKennie held the title of IDOT Staff Assistant from July 2009 to September 2016 and not Senior Project Manager.²⁴

²² In his OEIG interview, Mr. McKennie acknowledged that the attachment was a copy of his resume. Mr. McKennie, however, could not explain how Mr. Nichols would have obtained a copy of it.

²³ Although Mr. McKennie's resume reflected that he worked in the Office of Business and Workforce *Development*, IDOT position descriptions reflect the name Office of Business and Workforce *Diversity* (OEIG emphasis), which, according to IDOT's website, provides support and development to DBEs in Illinois. The OEIG confirmed that the primary responsibilities described in Mr. McKennie's resume for his position at IDOT were in accord with the primary responsibilities described in his IDOT position description.

²⁴ On June 14, 2014, the OEIG issued a founded report in case number 11-01567, which was published on August 22, 2014, wherein the OEIG made several findings related to IDOT's circumvention of state hiring rules intended to ensure compliance with the U.S. Supreme Court's ruling in *Rutan v. Republican Party of Illinois*. The Court in *Rutan* held that the First Amendment of the U.S. Constitution prohibits government from using party affiliation and support as a basis for promotion, transfer, recall, and hiring decisions of persons who do not occupy policymaking or confidential positions or positions for which "party affiliation is an appropriate requirement for the effective performance of the public office involved." 497 U.S. 62, 71 n.5 (1990). The OEIG found an inordinate number of instances where individuals hired as IDOT Staff Assistants did not perform the *Rutan*-exempt duties specified in their

Additionally, the background search revealed that Mr. McKennie previously worked for the City of Chicago as Project Administrator from June 2006 to March 2009 and not as Assistant General Superintendent.

b. Political and Community Experience

In 2007, Mr. McKennie unsuccessfully ran as a candidate for Alderman in the City of Chicago's 37th Ward.²⁵ In 2014, Mr. McKennie was appointed by the Maywood Village President to serve on the seven-member Economic Development Commission for the Village. His appointment was confirmed at the April 15, 2014 Maywood Village Board meeting upon a motion by Village Trustee Melvin Lightford.²⁶ Mr. McKennie resides in Maywood, Illinois with Senator Lightford.

F. Eric McKennie's September 7, 2016 Visit with CTA Chief Administrative Officer Thomas McKone

The OEIG's review of CTA records revealed that the day after the September 6 email was sent, Mr. McKennie visited the CTA and met with Mr. McKone.

In his OEIG interview, CTA Chief Administrative Officer Thomas McKone, who is responsible for overseeing the CTA's Diversity and HR Departments, among others, confirmed that he periodically received employment inquiries. He stated that he typically refers individuals with general inquiries to the CTA's website and may answer specific questions about the hiring process, either directly or through HR. However, for more senior level inquiries or if the inquiry is coming from someone he is familiar with, he stated that he might informally meet with the individual to learn about the individual's qualities, experience, and interests.

Mr. McKone told OEIG investigators that Mr. McKennie was an individual who was interested in having an informal meeting about the opportunities at the CTA. He acknowledged receiving the September 6 email but did not recall having a conversation with Mr. Nichols about Mr. McKennie prior to meeting with Mr. McKennie. Mr. McKone stated that the purpose of the meeting was to gather general information about Mr. McKennie's skills and background and that he did not consider the meeting to be a formal interview.

Mr. McKone recalled that, after the meeting, Mr. McKone spoke to Ms. Person, telling her

Staff Assistant position descriptions, and instead performed *Rutan*-covered work. Although the OEIG made no findings with respect to individual Staff Assistants, including Mr. McKennie, the Illinois Governor abolished the Staff Assistant position in response to the OEIG's findings in 11-01567; as a result, Mr. McKennie was laid off from his Staff Assistant position effective September 15, 2016. In addition, a federal court monitor was appointed in *Shakman, et al. v. Democratic Org. of Cook County, et al.*, No. 69 C 2145 (N.D. Ill. November 18, 2014), to address and remedy the hiring and employment improprieties at IDOT discovered through the OEIG investigation.

²⁵ See Eric P. McKennie, Democrat for 37th Ward Alderman - About, <http://www.digitalmeneghini.com/ericmckennie/about.html> (last visited Mar. 5, 2018); see also Summer Conception, *Aldermanic Runoff: 37th Ward*, NBC Chicago, Mar. 18, 2015, <https://www.nbcchicago.com/news/local/Aldermanic-Runoff-37th-Ward-296736211.html> (last visited Mar. 5, 2018).

²⁶ See Village of Maywood, Minutes of the Regular Meeting of the Board of Trustees (April 15, 2014), *available at* <http://maywood-il.org/Village-Services/City-Clerk/Ordinances/RBM-Minutes-04-15-2014.aspx> (last visited Mar. 5, 2018).

about Mr. McKennie's background in diversity programs at IDOT. Mr. McKone clarified that even though Mr. McKennie's resume did not necessarily reflect his diversity experience, Mr. McKennie extensively described his background in diversity programs during their September 7th meeting. Mr. McKone denied having any position in mind for Mr. McKennie after meeting with him, but he nevertheless asked Ms. Person to meet with Mr. McKennie. His understanding was that Ms. Person was going to talk to Mr. McKennie about the opportunities within Diversity to determine if there was a fit.

Mr. McKone also recalled speaking with Mr. Nichols after meeting with Mr. McKennie, to get Mr. Nichols' opinion. Mr. McKone stated that Mr. Nichols was generally positive about Mr. McKennie, indicating that he (Mr. Nichols) had known Mr. McKennie for a while and that Mr. McKennie had done good work.

G. Eric McKennie's September 19, 2016 Visit with Mary Person and [Employee 3]

CTA records showed that Mr. McKennie visited the Diversity Department for approximately one hour on September 19, 2016, at Ms. Person's request. On February 17, 2017, the OEIG interviewed then-CTA Director of Diversity Programs Mary Person.²⁷

Ms. Person recalled that in approximately July or August of 2016, the CTA posted a Diversity Specialist²⁸ position, the CTA received applications, and sometime in the fall or winter of 2016, she participated in interviews for that position. Ms. Person stated that she was allowed to score and have input on interviews she participated in and recalled personally participating in at least two interviews for the Diversity Specialist position: Eric McKennie and a woman whose name she could not recall. Ms. Person stated she believed there may have been a third person interviewed for the Diversity Specialist position that she did not participate in, but she could not say for sure. Ms. Person recalled that she and [Employee 3] sat in on an interview for Mr. McKennie. When investigators asked if there was a consensus meeting after interviews were conducted for the Diversity Specialist position, Ms. Person stated, "Yeah, I believe so." When asked if a candidate was selected as a consensus number one pick, she stated, "We have a candidate, so, yeah." Ms. Person told investigators that Mr. McKennie was selected as the consensus number one candidate, but after interviews were conducted, the Diversity Specialist title was elevated to Project Consultant²⁹ "based on what we wanted" and the applications received for the position.

Ms. Person stated that during this period, the CTA was moving forward on a large-scale modernization project, which prompted discussions between her and her supervisor, Mr. McKone, about what the CTA needed to support a project of that size. She stated that they discussed having a Diversity outreach team and, specifically, having someone to manage that team. Ms. Person

²⁷ As of approximately January 2018, Ms. Person left CTA employment.

²⁸ Throughout her interview, Ms. Person interchanged Diversity Specialist and Diversity Programs Specialist titles. She stated she believed the position went through a couple of title changes during this reorganization period, but the job itself did not really change.

²⁹ In her interview, Ms. Person referred to the position as Senior Project Consultant. However, after reviewing hiring documents, the OEIG learned that the position title was actually Project Consultant.

stated that only one of the Diversity Specialist candidates had management experience—Mr. McKennie, and after Mr. McKennie was selected as the consensus number one pick, she and Mr. McKone discussed elevating the Diversity Specialist position to Project Consultant because, technically, the Diversity Specialist could not have any direct reports. Ms. Person stated that once the position title changed, the salary would have changed to something comparable to what other managers in the department were making.

On July 11, 2017, the OEIG interviewed former [Employee 3]³⁰ about how he met Mr. McKennie. [Employee 3] recalled that Ms. Person asked him to sit in with her while she met with someone. [Employee 3] told OEIG investigators that it was not until half-way through the meeting that he realized that Ms. Person was interviewing Mr. McKennie for a job.

[Employee 3] explained that he had participated in candidate interviews at the CTA in the past, and that normally, there was an interview panel with structured questions. In this case, however, [Employee 3] stated that there was no interview panel and no structured questions. [Employee 3] stated that he did not personally ask Mr. McKennie any interview questions, he ([Employee 3]) did not take any notes, and he did not have any documents regarding Mr. McKennie. [Employee 3] stated that he was not part of a consensus meeting to determine that Mr. McKennie was the best candidate and was not part of any discussions regarding the decision to hire Mr. McKennie.

[Employee 3] stated that after the meeting, he asked Ms. Person, “was that an interview?” According to [Employee 3], Ms. Person confirmed that it was an interview but that an interview panel, score sheets, and a consensus meeting were not needed because Mr. McKennie was applying to a position with a different classification or different grade. At the time, [Employee 3] stated that he did not know what position Mr. McKennie was interviewing for, but he believed it could have been an outreach position. [Employee 3] stated that he did not participate in any other interviews for the position into which Mr. McKennie was hired and that he was unaware of whether any other candidates were interviewed for that position. [Employee 3] was not aware of any political connections or affiliations with respect to Mr. McKennie but stated that Mr. McKennie “seem[ed] to know a lot of people.”

H. Diversity Department Job Postings

The OEIG requested documents related to all CTA job postings, filled and unfilled, in the Diversity Department between January 1, 2016 and February 21, 2017. The OEIG learned that in the fall of 2016, the CTA posted three positions shortly after Mr. McKennie met with Ms. Person on September 19th: Project Specialist II, Diversity Specialist, and Senior Compliance Specialist. Below are certain details for these three posted positions:

	Diversity Specialist	Project Specialist II	Senior Compliance Specialist
Date Posted	Sept. 20 – Oct. 4, 2016	Sept. 20 – Oct. 4, 2016	Sept. 21– Oct. 5, 2016

³⁰ [Employee 3] resigned from the CTA in early May 2017.

Education/ Experience Requirements	Bachelor's degree in Business, Public Administration, or related field, plus three years experience with DBE Programs, or a combination of education and experience related to the position.	Bachelor's degree in Business Administration, Management, or a related field, plus two years of experience in an administrative position, or an equivalent combination of education and experience.	Bachelor's degree in Business, Public Administration, Law, or related field, plus three years certification experience, or a combination of education and experience related to the position.
Salary Band	E	E	F
Posted Target Salary	\$50,000-\$57,000	\$50,000-\$55,000	\$67,294.91
Date Position Filled (Offered)	Not filled	Nov. 23, 2016	Dec. 15, 2016

The OEIG's review of these documents showed that the CTA conducted structured interviews and filled the Project Specialist II and Senior Compliance Specialist positions. The documents reflected that the CTA received and reviewed 112 applicant resumes in response to the Diversity Specialist posting. The Diversity Specialist posting documents reflected that on October 19 and 20, 2016, the CTA conducted phone screen interviews for three of the applicants and recommended two of the applicants for a formal interview, but the CTA did not conduct any candidate interviews for that position. The documents also reflected that Mr. McKennie did not apply and was not interviewed for any of the three posted positions.

I. Eric McKennie's September 30, 2016 CTA Employment Application and Hiring File

Documents provided by the CTA to the OEIG showed that Mr. McKennie submitted a handwritten CTA employment application for the position of Project Consultant – Diversity, signed by Mr. McKennie³¹ and dated September 30, 2016. CTA email communications showed that on October 7, 2016, an HR manager emailed a copy of Mr. McKennie's employment application, along with his salary history, to Mr. McKone and [Employee 7]. In the body of the email, the HR manager stated, "I just let him know we would be in touch next week with more information." Mr. McKone responded to that email on October 11, 2016 stating, "I told him to expect an offer letter in a couple of days from HR matched to the manager salary (\$81,272)."

Mr. McKennie's employment file contained a staffing authorization form but no other documents that were present in other Diversity employment files such as position descriptions, records of hiring committee approval, candidate interview notes from each interviewer, consensus evaluation summaries, and signed CTA nepotism policy acknowledgement forms. The staffing authorization form, dated October 12, 2016, showed that the Project Consultant – Diversity position had a Salary Band I classification and that Mr. McKennie was directly hired into that

³¹ During his OEIG interview, Mr. McKennie acknowledged that the handwriting and signature appeared to be his.

position. Although the staffing authorization form did not specify a salary, Mr. McKennie's offer of employment letter, dated October 11, 2016, reflected an annual base salary of \$81,272.

J. Mr. McKennie's CTA Position Description

On February 21, 2017, the OEIG requested copies of all Diversity Department job descriptions from CTA, including Mr. McKennie's, in addition to other various hiring documents. Although CTA provided Mr. McKennie's hiring file, his job description was not part of the file and was not provided together with the other Diversity Department job descriptions.

The OEIG's review of emails related to Diversity hiring activities revealed that on October 11, 2016, the very same day that the offer letter was sent to Mr. McKennie for the Project Consultant – Diversity position, Ms. Person sent an email to Mr. McKone, stating, "Tom[,] please review this Job description[,] and let me know what you think. I think a position such as [sic] could be a benefit to our program." The October 11th email attached a draft position description for a Manager, Diversity Programs Outreach position. Ms. Person subsequently emailed that draft position description to the HR Department for review.

In late April 2017, after Mr. McKennie had left his CTA position and after subsequent requests by the OEIG, the CTA provided a position description for the Project Consultant – Diversity title, dated March 2017.³² With the exception of the position title and the date, the finalized position description for the Project Consultant – Diversity, was identical to the October 11, 2016 draft Ms. Person sent Mr. McKone.

The OEIG compared the Salary Band E Diversity Specialist position description to the finalized Salary Band I Project Consultant – Diversity position description. The following is a summary of the position descriptions (differences appear in bold):

<u>DIVERSITY SPECIALIST</u>	<u>PROJECT CONSULTANT - DIVERSITY</u>
Position Summary	
Under general supervision, performs activities related to the implementation and administration of the Authority's Disadvantaged Business Enterprise (DBE) program, including oversight of certification functions in accordance with applicable federal and state laws and assists in coordinating opportunities to promote business development programs.	Provides general supervision of outreach staff, performs activities related to the implementation and administration of the Authority's Disadvantaged Business Enterprise (DBE) program, including oversight of promoting outreach activities and business development programs for the CTA diversity department.
Education/Experience Requirements	

³² On April 27, 2017, in supplementing the CTA's response to an OEIG request for documents, Stephen Wood, CTA Ethics Officer, explained that Mr. McKennie was hired in late November 2016 into a new position designated as Project Consultant – Diversity, but that the position was originally conceived as a Manager, Diversity Programs. He further explained that the title was not changed until later in the process, and that, in completing the paperwork to reflect the title change, the position description for Project Consultant – Diversity was not finalized. Mr. Wood stated that "[t]he paperwork oversight was not discovered until recently."

Bachelor's Degree in Business, Public Administration, or a related field, plus three (3) years of experience with DBE Programs, or a combination of education and experience relating to this position.	Bachelor's Degree in Business, Public Administration, or a related field, plus three (3) years of experience with DBE Programs, or a combination of education and experience relating to this position.
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% time	Primary Responsibilities	
50%	<p>Manages outreach and networking sessions to support Authority DBE goals.</p> <ul style="list-style-type: none"> Organizes all Diversity Outreach events, including outreach activities to recruit potential DBE's, regular meetings with DBE firms, industry associations, community organizations, contract consultants, and other governmental units to promote a better understanding of the DBE program, and conferences and trade shows to promote business. Leads, facilitates, and participates in various DBE workshops and events. Promotes and supports DBE participation and development by educating vendors on the contracting process, how to conduct business with the Authority, information on certification, and upcoming contracting opportunities. Provides data needed by management for reporting purposes. 	<p>Oversees outreach and networking sessions to support Authority DBE goals.</p> <ul style="list-style-type: none"> Manages and organizes all Diversity Outreach events, including outreach activities to recruit potential DBE's, regular meetings with DBE firms, industry associations, community organizations, contract consultants, and other governmental units to promote a better understanding of the DBE program, and conferences and trade shows to promote business. Tracks and monitors the participation of staff at various DBE workshops and events. Promotes and supports DBE participation and development by educating vendors on the contracting process, how to conduct business with the Authority, information on certification, and upcoming contracting opportunities. Creates and provides needed reporting data.
10%		<p>Directs assigned division within the Diversity department in the administration of the Authority's DBE outreach goal and plans</p> <ul style="list-style-type: none"> Hires, trains and develop monitors and evaluate staff. Reviews and recommends personnel actions for approval. Reviews data prepared by staff and assist in highly complicated issues Represents the Authority in DBE related matters.

The remaining 40% of the primary responsibilities for the Project Consultant – Diversity position, although worded a little differently, covered all the same duties as the Diversity Specialist position.

Because the education/experience requirements were exactly the same for both positions, the OEIG reviewed all of the applicant resumes³³ the CTA received for the Diversity Specialist position. At least five applicants, based on their written submissions, appeared to meet the minimum education and experience requirements for both the Diversity Specialist and the Project Consultant – Diversity positions, including two applicants who had prior management experience. The OEIG could not find any evidence in the CTA hiring files indicating that any of these applicants were considered for the Project Consultant – Diversity position that was offered to Mr. McKennie.

Further, although the Project Consultant description stated that the position would provide for the general supervision of outreach staff, the description indicated that no job titles reported to the Project Consultant – Diversity position. The OEIG also reviewed organization charts of the Diversity Department during the period of Mr. McKennie’s employment and confirmed that no job titles ever reported to Mr. McKennie.

K. Interview of Chief Administrative Officer Thomas McKone

During his OEIG interview, Mr. McKone told investigators that after Ms. Person met with Mr. McKennie, he and Ms. Person discussed Mr. McKennie’s background in diversity. Mr. McKone stated that, together, he and Ms. Person decided to hire Mr. McKennie into a new position that focused on outreach because the CTA was looking to strengthen its diversity outreach efforts at the time. Mr. McKone stated that he and Ms. Person would have spoken to HR about the functions Mr. McKennie would be performing and whether this role, which focused on outreach, was reflected in any of the vacant positions within the Diversity Department. Mr. McKone stated that there would have to be a job description in place before an individual is hired so that the individual knows what he or she will be doing.

Mr. McKone acknowledged that during the time of Mr. McKennie’s hire, there were three vacancies within Diversity: Project Specialist II, Senior Compliance Specialist, and Diversity Specialist, but he denied directing Mr. McKennie to apply to any of these vacant positions. After reviewing a copy of the Diversity Specialist job posting, Mr. McKone noted that Mr. McKennie would not have applied for the Diversity Specialist position, whose primary duty was to manage outreach and networking sessions, because the Diversity Specialist position was a much lower position, focused mainly on logistics, and required only three years of relevant experience.³⁴

After reviewing a copy of an email Ms. Person sent to him on October 11, 2016 with a draft Manager, Diversity Programs Outreach position description attached, Mr. McKone said there may have been some discussions about having a manager of outreach, but he stated that the Diversity Department is a small group, and he generally had concerns about it being overmanaged. Mr. McKone did not recall any discussions about Mr. McKennie managing a Diversity outreach team and stated that Project Consultants do not typically manage others. He acknowledged,

³³ The OEIG was unable to open the resume for one individual; as such the OEIG reviewed 111 of the 112 resumes received for the Diversity Specialist position.

³⁴ As previously stated, the qualifications for both the Diversity Specialist and Project Consultant – Diversity positions were identical, both requiring a bachelor’s degree, plus three years’ experience in DBE programs, or a combination of relevant education and experience.

however, that the draft Manager, Diversity Programs Outreach position description attached to the October 11, 2016 email was identical to the final Project Consultant – Diversity position description, dated March 2017.

Mr. McKone told investigators that the decision to hire Mr. McKennie as Project Consultant – Diversity was jointly made between him and Ms. Person. When presented a copy of the staffing authorization form, signed by [Employee 7] and reflecting the direct hire of Mr. McKennie to the Project Consultant – Diversity position, Mr. McKone stated that prior to signing a staffing authorization for a direct hire, [Employee 7] would speak with the department requesting the direct hire—in this case, Mr. McKone and Ms. Person. Mr. McKone stated that, after confirming with Ms. Person that Mr. McKennie was a good fit, he (Mr. McKone) spoke to [Employee 7] about directly hiring Mr. McKennie.³⁵

When asked whether Mr. McKennie was interviewed and scored by an interview panel, and whether there was a meeting to determine if he was the number one candidate, Mr. McKone confirmed that the CTA had a “formal” hiring process where candidates are interviewed and scored, but he did not believe Mr. McKennie went through the formal hiring process. He also told investigators that the Project Consultant – Diversity position that Mr. McKennie was hired into did not have to be posted because it was a Salary Band I classification. Mr. McKone did not know if anyone other than Mr. McKennie interviewed for the Project Consultant – Diversity position and stated that he did not interview anyone else for that position.

Mr. McKone maintained that the Project Consultant – Diversity position was the right position for Mr. McKennie given his experience and the need to have a higher-level position. He stated that the CTA’s hire of Mr. McKennie was in the best interest of the CTA, explaining that the DBE community is relatively small and that it is rare to find individuals with Mr. McKennie’s experience with DBE programs. He also stated that the decision to bring Mr. McKennie on as a direct hire was made to save time and bring him on quicker. He added that the CTA could discharge Mr. McKennie if it turned out that he was not a good fit.³⁶ Mr. McKone stated that Mr. McKennie was qualified for the job and that, ultimately, he (Mr. McKone) made the decision to hire Mr. McKennie as Project Consultant – Diversity.

When the OEIG specifically asked Mr. McKone if he was aware of any political affiliations or connections with respect to Mr. McKennie, he stated that Mr. McKennie happened to mention that he was married to State Senator Kimberly Lightford during their informational meeting in September 2016. Mr. McKone stated that, although Mr. McKennie was not trying to hide the fact that he was married to a state senator, Mr. McKennie’s political affiliation or connection did not have any influence on the decision to hire him.

L. Second Interview of Mary Person

a. The Hire of Mr. McKennie

³⁵ [Employee 7] told investigators during his OEIG interview that it was Mr. McKone’s decision to directly hire Mr. McKennie without going through the standard hiring process.

³⁶ The CTA staffing authorization form for Mr. McKennie designated the position as “at-will.”

On March 16, 2018, the OEIG interviewed Ms. Person a second time regarding the circumstances of Mr. McKennie's hire. Ms. Person stated that it was not her decision to interview Mr. McKennie and that Mr. McKone asked her to interview Mr. McKennie after Mr. McKone had already spoken to him. Ms. Person stated she interviewed Mr. McKennie for an outreach position and it was her impression that Mr. McKennie had already applied for a posted CTA position, possibly a Diversity Specialist position. Ms. Person stated that Mr. McKennie "would have had to have gone through the normal hiring process" and that she did not consider the outreach position to be a direct hire-type of position.

Ms. Person stated she did not ask Mr. McKennie to apply for any particular position after she met with him on September 19th because, again, she thought he had already applied. When investigators showed Ms. Person Mr. McKennie's September 30, 2016 employment application for the position of Project Consultant – Diversity, Ms. Person stated that she did not inform Mr. McKennie to apply for that position, and she did not know who did. Ms. Person stated she did not know how Mr. McKennie would have known to apply for the Project Consultant – Diversity position if it was not posted.

Ms. Person said she was not involved in extending the offer of employment to Mr. McKennie, explaining that she never knew when offers of employment were made to individuals. She then stated that even though the outreach position was needed, there was no rush to hire someone to fill the outreach position compared to other vacancies in her Department. After reviewing the CTA's October 11, 2016 offer of employment letter to Mr. McKennie for the position of Project Consultant – Diversity, Ms. Person stated she was not familiar with the letter. Ms. Person did not recall when she learned that Mr. McKennie was hired as a Project Consultant – Diversity, but it would have been a few days before he started in late November 2016 because she was usually involved in the on-boarding process for new Diversity employees.

When asked if Mr. McKennie's political connection to Senator Lightford had any influence on her decision to recommend Mr. McKennie to be hired, she stated that she was not even aware of his connection until after he was hired, and that it was "never discussed." Ms. Person said she did not know if Mr. McKennie's political connection to Senator Lightford influenced anyone at the CTA to hire him.

b. Project Consultant – Diversity

Investigators showed Ms. Person various drafts of position descriptions for a Manager, Diversity Programs Outreach position, which were attached to a series of emails, dated October 11, 2016 through October 28, 2016. Ms. Person presumed that this was the period when she was having discussions with Mr. McKone about elevating the outreach position to manager. Ms. Person said as of October 11, 2016, she did not have any person in mind for this manager position, including Mr. McKennie. She believed it was a coincidence that the CTA made an offer of employment to Mr. McKennie on the same day that she sent an initial draft of the Manager, Diversity Programs Outreach position to Mr. McKone for review.

Investigators also showed Ms. Person a copy of the final CTA position description for the Project Consultant – Diversity position, dated March 2017. Ms. Person denied any involvement

in the creation of the Project Consultant position description. However, when she compared the October 11, 2016 draft Manager position description to the final Project Consultant position description, she acknowledged that, except for the position title and the date, the descriptions were identical.

Ms. Person stated that she found it odd that Mr. McKennie applied for the Project Consultant position on September 30th and that on October 11th, he was offered that position, which she did not even know existed, while she was still having discussions about what the position would do. Ms. Person stated that usually HR has a position description in place before a position is posted and someone is hired. She added that it did not sound normal to hire someone for a position in which there was no position description. When asked how she, as his supervisor, held Mr. McKennie accountable if there was no position description in place until months after he was hired, Ms. Person stated she would have referred to the draft Manager, Diversity Programs Outreach position description.

She stated that, in looking at the documents, it appeared that she did not have a say in Mr. McKennie's hire and that "maybe [she] thought [she] was making a decision that was already made for [her]." Ms. Person was unaware of anyone else other than Mr. McKone being involved in Mr. McKennie's hire.

c. Diversity Specialist Candidates

OEIG investigators reminded Ms. Person that, in her first interview, she stated that Mr. McKennie was one of at least two individuals who interviewed for a Diversity Specialist position and that, after interviews were conducted and Mr. McKennie was selected as the number one candidate, she and Mr. McKone discussed elevating the Diversity Specialist position in light of the CTA's need to have someone manage an outreach team and Mr. McKennie's prior management experience. Ms. Person said she believed that whatever she told the OEIG during her first interview was true at the time she made those statements and that her recollection of interviewing anyone for the Diversity Specialist position would have been better at the time of her first interview.

Investigators showed Ms. Person a list of 112 applicants for the Diversity Specialist position, which reflected that Mr. McKennie did not apply for the position. Investigators also showed Ms. Person documents from the posting file, which reflected that phone screens were conducted for three Diversity Specialist candidates, but no interviews were conducted. The OEIG explained that its review of applicant resumes revealed that at least five other applicants, including two with management experience, met the minimum education and experience requirements for the Diversity Specialist position. Ms. Person did not recall whether she reviewed applicant resumes or whether she participated in the phone screens for the Diversity Specialist position. However, she stated that usually, interviews are scheduled shortly after phone screens are conducted. Ms. Person had no explanation for why Diversity Specialist applicants were not interviewed or why qualified applicants for the Diversity Specialist were not given the same opportunity to apply and interview for the Project Consultant position as Mr. McKennie.

M. The OEIG's Investigation Of Eric McKennie's Attendance And Timekeeping

1. Review of CTA Employee Attendance and Timekeeping Policies and Practices

The OEIG reviewed the CTA's attendance and timekeeping policy for non-union, administrative office employees, AP 127. Employees subject to this policy must record their exact arrival and departure times for each work day, indicate lunch and break times, and indicate the nature of any absence. Employees should note any time worked away from his or her assigned location in the comments section and specify the arrival and departure times for the time spent working away. Under AP 127, employees are required to sign their timesheets.

AP 127 states that the CTA's normal administrative office hours at headquarters extend from 8:00 AM to 4:30 PM Monday through Friday, and that employees must report for an eight and one half-hour period per day, including two paid 15-minute breaks and one unpaid half-hour lunch. The policy also provides that individual departments may establish independent hours of operation by assigning staff to work hours outside of the normal administrative office hours.

AP 127 also requires that employees working at CTA headquarters "tap"³⁷ in and out each time they enter or leave the building. The OEIG spoke to [Employee 8], who oversees the property management company that administers building access at CTA headquarters, regarding the CTA's security practices. [Employee 8] confirmed that headquartered employees tap in and out each time they pass the first-floor security desk using their CTA identification cards and that employees are not allowed to use other employees' identification cards.³⁸ He clarified that CTA identification cards are unique to each individual and that every tap records a time-stamp and the location of the reader that read the card. [Employee 8] indicated that some areas of the building are restricted and that certain CTA employee identification cards are pre-programmed to allow access to those areas. The CTA records taps to those areas. [Employee 8] stated the lobby readers indicate if the individual is exiting or entering.

2. Interviews of Diversity Programs Employees

During her first OEIG interview on February 17, 2017, Ms. Person explained that all positions within the Diversity Department require work outside of headquarters to attend various offsite events, including outreach events. When specifically asked about how employees in the Diversity Department documented their time, she stated that employees submit signed timesheets on a weekly basis. She explained that the signature on the timesheet signifies that the employee is attesting to the hours recorded as worked on the timesheet. Ms. Person also stated that an employee's taps at the CTA headquarters document the employee's arrival and departure, which, to her, was the true documentation of an employee's hours worked. Ms. Person added that she

³⁷ AP 127 states that employees working at CTA headquarters must "swipe" in and out each time they enter or leave the building. The OEIG also reviewed the Tenant Handbook for 567 West Lake Street (Tenant Handbook), which states that CTA employees "must present their building ID Badge to the turnstile card reader in order to proceed through the turnstiles. . . . Occupants must exit the building from lobby doors after badging out." For the purposes of this report, the OEIG will refer to the process of using a CTA identification card to access CTA work locations as "tapping" in and out.

³⁸ The Tenant Handbook states that "[o]ccupants must be vigilant and not allow others . . . to follow them (tail gate) through a card reader-controlled [entry]."

tries to compare her employees' tap records with their timesheets on a quarterly basis.

When asked about how she monitors her employees' work outside the office, she stated that meetings and other events are usually on employees' calendars and that those events are added to her calendar as if she were attending. She stated if, for instance, it appeared from the tap records that an individual only worked a few hours on any given day, she would try to go back to see whether that individual took time off or whether there was an outreach event scheduled for that day, which would account for the discrepancy.

The OEIG also spoke to other current and former Diversity employees who reported to Ms. Person, including [Employee 2]³⁹ and former [Employee 3], regarding Diversity timekeeping and attendance practices. When asked about working hours for the Diversity Department, [Employee 3] stated that Diversity employees typically worked between 8:00 AM to 5:00 PM, while [Employee 2] told the OEIG that regular working hours for the Diversity Department varied, but typically started between 7:30 and 9:30 AM and ended between 4:30 and 6:00 PM. Both described the practice of documenting their time worked on weekly timesheets, and [Employee 2] indicated that employees' signatures on the weekly timesheets verify that the hours reflected on the timesheets accurately reflect the hours worked. Both [Employee 3] and [Employee 2] confirmed they would notify their supervisor, Ms. Person, either via email, through Outlook calendar invitations, or in-person, before attending an event or working outside the office. They also stated that Diversity employees were instructed to note any time spent working offsite on their timesheets.

When specifically asked about Mr. McKennie, neither were familiar with his specific work hours. [Employee 3] told OEIG investigators that he did not see Mr. McKennie very often and that it appeared to him that Mr. McKennie worked out of the office approximately 60% of the time. Likewise, [Employee 2] indicated that he would occasionally see Mr. McKennie in the office, noting that Mr. McKennie would generally not come in on time and would leave early. He also stated that Mr. McKennie would sometimes miss regularly scheduled Diversity staff meetings. Both [Employee 3] and [Employee 2] confirmed that Mr. McKennie reported to Ms. Person.

3. Review of CTA Payroll, Timekeeping, and Event Records

The OEIG requested and reviewed timekeeping/payroll records for Mr. McKennie for the time he worked at the CTA from November 28, 2016 to March 17, 2017. Accounting for holidays, there were 77 working days during this period. According to Mr. McKennie's CTA earnings statements, out of the 77 total working days, Mr. McKennie used 168 hours of benefit time, which amounts to 21 days.

The OEIG also requested Mr. McKennie's timesheets for his CTA employment period. Of the 16 total weeks that Mr. McKennie worked for the CTA, the CTA could only locate and produce seven weekly timesheets for him starting the week of January 9, 2017. None of Mr. McKennie's timesheet comments reflected time worked away from CTA headquarters.

The OEIG compared these seven weekly timesheets with CTA time entry records, payroll

³⁹ [Redacted identifying information.]

records, and tap transaction records. The OEIG also reviewed Mr. McKennie's "Outlook" calendar events and emails, as well as all Diversity Department events scheduled or attended by CTA staff during Mr. McKennie's employment.⁴⁰ If an event was listed or referenced in any of these documents that would have affected his start or end time, the OEIG listed the event in the below tables explaining Mr. McKennie's work away from the office.⁴¹ The work away events listed in the tables are further described below.

According to Diversity Department records, Mr. McKennie attended three events during the period of his CTA employment: an all-day⁴² City of Chicago Department of Procurement Construction Summit [Downtown Chicago] on February 8, 2017, an outreach meeting at Parsons Corporation [Chicago West Side] from 8:30 AM to 10:30 AM on February 17, 2017, and a Meet the Contractors Event [Chicago West Side] from 9:00 AM - 1:00 PM on March 17, 2017.⁴³ In addition, during this same period, Mr. McKennie's Outlook calendar included the following events during times the CTA paid Mr. McKennie for time worked but tap records reflected that he had either not yet arrived at or had left early from CTA headquarters:

- December 13, 2016: Chicago Public Schools Vendor Outreach/Networking Event [Chicago Garfield Park Neighborhood], 8:00 AM – 12:30 PM;
- December 20, 2016: Meeting with Burns Construction [Chicago Austin Neighborhood], 8:00 AM – 9:00 AM;
- February 3, 2017: Transportation Symposium and Business Exchange (TSBE) Planning Meeting [RTA headquarters], 1:30 PM – 4:00 PM;
- February 16, 2017: Government Procurement Compliance Forum [Chicago City Hall], 10:00 AM – 11:30 AM; and
- March 3, 2017: TSBE Planning Meeting [RTA headquarters], 1:30 PM – 4:00 PM.

The OEIG also reviewed Mr. McKennie's emails to determine whether any discrepancies between what Mr. McKennie reported on his timesheets and what his tap records reflected could be explained by additional offsite, work-related activities or events that were not reflected on his CTA Outlook calendar. In addition to the events noted above, Mr. McKennie's emails reflected that on January 27, 2017, a contractor outreach event was scheduled in Chicago's East Side neighborhood from 9:00 AM to 12:00 PM. Emails also reflected that he arranged to visit a

⁴⁰ The CTA produced an excel spreadsheet for the first quarter of 2017 (January through March 2017) listing all Diversity scheduled events, dates and times, locations, event hosts, and the names of the CTA staff that attended each event. The CTA did not have a similar listing of Diversity events for 2016.

⁴¹ In calculating work time discrepancies, the OEIG allowed for half an hour for travel each way to meetings within the City of Chicago.

⁴² According to the 2017 Diversity Department's scheduled event listing, the February 8, 2017 event started at 10:00 AM and ended at 1:00 PM. According to email communications reviewed by the OEIG, the event set-up began at 9:00 AM and ended at 3:00 PM. Mr. McKennie's Outlook calendar reflected that this was an all-day event. The OEIG credited Mr. McKennie for eight hours of work on this day.

⁴³ The Meet the Contractors event appeared on the 2017 Diversity event listing as taking place from 1:00 PM to 3:00 PM. However, Mr. McKennie's Outlook calendar had the event as occurring from 9:00 AM to 1:00 PM, which is what is reflected in the chart below. A flyer for the event, which was attached to Mr. McKennie's Outlook calendar showed the event occurring from 10:00 AM to 12:00 PM.

potential venue on the West Side of Chicago for a future Diversity event on February 28, 2017, at approximately 2:00 PM.⁴⁴

4. OEIG's Summaries of Mr. McKennie's Time/Tap Records

After comparing all of these timekeeping records, the OEIG generated the following two tables. The first table summarizes the OEIG's review for the dates that the CTA produced timesheets (January 9, 2017 through March 3, 2017). In total, for the seven weeks Mr. McKennie submitted timesheets, the OEIG estimates the following:

- Mr. McKennie took 11 vacation days (88 hours) and two sick days (16 hours);⁴⁵
- for 21 days of the 22 days he was reportedly at work, he did not report for a full eight and one half-hour period according to the tap records and accounting for any time worked away; and
- Mr. McKennie overreported his time worked by approximately 46 hours⁴⁶ or nearly six full days.

⁴⁴ Tap records for February 28, 2017 showed that Mr. McKennie first arrived at CTA headquarters at 10:00 AM and left CTA headquarters at 12:55 PM. Mr. McKennie did not tap back in at CTA headquarters for the rest of the day. The OEIG credited Mr. McKennie with a 4:30 PM end time on February 28th.

⁴⁵ These benefit time usage numbers are based on approved CTA time entry records. Payroll records, however, reflected that Mr. McKennie was paid for 12 vacation days and one sick day.

⁴⁶ The approximately 46 hours does not account for the three hours and 15 minutes that Mr. McKennie was at CTA headquarters on February 23, 2017. Mr. McKennie's payroll records reflect that Mr. McKennie used eight hours of vacation benefit time for that day.

Eric McKennie Tap-Event Records Summary (Timesheets Provided)

Date	Timesheet Start Time	Timesheet End Time	First Tap In ⁴⁷	Last Tap Out	Time Worked Away ⁴⁸	Discrepancy (rounded to nearest 15 min.)
1/09/17	8:00 AM	4:30 PM	8:34 AM	4:45 PM		0:15
1/10/17	8.0 HRS. SICK		-	-		0:00
1/11/17	8.0 HRS. VACATION		-	-		0:00
1/12/17	8.0 HRS. SICK ⁴⁹		-	-		0:00
1/13/17	8:00 AM	4:30 PM	10:03	5:03 PM		1:30 ⁵⁰
1/16/17	CTA PAID HOLIDAY		-	-		0:00
1/17/17	8:00 AM	4:30 PM	9:58 AM	5:08 PM		1:15
1/18/17	8:00 AM	4:30 PM	10:18	5:11 PM		1:30
1/19/17	8:00 AM	4:30 PM	1:29 PM	5:00 PM		4:00 ⁵¹
1/20/17	8:00 AM	12:30 PM	9:55 AM	10:56 AM		2:30
1/30/17	8.0 HRS. VACATION		-	-		0:00
1/31/17	8.0 HRS. VACATION		-	-		0:00
2/01/17	8.0 HRS. VACATION		-	-		0:00
2/02/17	8.0 HRS. VACATION		-	-		0:00
2/03/17	8:00 AM	4:30 PM	10:06	1:28 PM	1:30 PM – 4:00 PM	2:00
2/06/17	8:00 AM	4:30 PM	10:02	6:21 PM		0:15
2/07/17	8:00 AM	4:30 PM	9:25 AM	4:59 PM		1:00
2/08/17	8:00 AM	4:30 PM	-	-	8:00 AM – 4:30 PM	0:00
2/09/17	8.0 HRS. VACATION		-	-		0:00
2/10/17	8:00 AM	4:30 PM	2:09 PM	4:45 PM		5:00
2/13/17	8:00 AM	4:30 PM	-	-		0:00 ⁵²
2/14/17	8:00 AM	4:30 PM	10:05	4:44 PM		1:45

⁴⁷ For the purposes of this review, the OEIG noted Mr. McKennie's first and last tap at CTA headquarters for each work day, and assumed that Mr. McKennie was working on CTA business during the period between those taps. On the days Mr. McKennie arrived at CTA headquarters at 12:00 PM or later, the OEIG credited Mr. McKennie with an hour for lunch (half hour unpaid and two paid 15-minute breaks). The OEIG also credited Mr. McKennie with an hour lunch on January 20, 2017, when Mr. McKennie was only at CTA headquarters from approximately 10:00 AM to 11:00 AM but his timesheet reflected that he was at work from 8:00 to 12:30 PM.

⁴⁸ This column represents times for events appearing in the Diversity Department's listing of scheduled events or on Mr. McKennie's CTA Outlook calendar and email, rather than events noted on Mr. McKennie's CTA timesheets.

⁴⁹ For the two-week pay period from January 8-21, 2017, payroll records reflected that Mr. McKennie was paid for 80.0 hours, including 8.0 hours of sick time and 20.0 hours of vacation time, even though Mr. McKennie's timesheets and CTA time entry records reflected that Mr. McKennie used 16.0 hours of sick time and 12.0 hours of vacation during this period.

⁵⁰ The OEIG received a timesheet signed by Mr. McKennie, reportedly for the week ending on January 3, 2015. However, the timesheet was printed on January 13, 2017. The OEIG assumes this timesheet corresponds to the week ending January 13, 2017, which was the week of the 100th General Assembly Inauguration.

⁵¹ Mr. McKennie was paid for 40.0 hours the week of January 16-20, 2017. Time entry records for Mr. McKennie reflected 7.5 hours of work on January 19, 2017 and 8.5 total hours, including 4.0 hours of paid vacation, on January 20, 2017. In calculating any discrepancies, the OEIG assumed an eight and one half-hour work day, or eight hours of paid work, for each day.

⁵² According to approved CTA time entry and payroll records, Mr. McKennie used 8.0 hours of vacation on February 13, 2017.

Date	Timesheet Start Time	Timesheet End Time	First Tap In ⁴⁷	Last Tap Out	Time Worked Away ⁴⁸	Discrepancy (rounded to nearest 15 min.)
2/15/17	8:00 AM	4:30 PM	12:52 PM	4:47 PM		3:30
2/16/17	8:00 AM	4:30 PM	1:25 PM	4:46 PM	10:00 AM – 11:30 AM	2:15
2/17/17	8:00 AM	4:30 PM	10:05	3:56 PM	8:30 AM – 10:30 AM	0:30
2/20/17	8:00 AM	4:30 PM	9:10 AM	4:35 PM		1:00
2/21/17	8:00 AM	4:30 PM	-	-		8:00
2/22/17	8.0 HRS. VACATION		-	-		0:00
2/23/17	8.0 HRS. VACATION		12:47 PM	4:06 PM		(3:15)
2/24/17	8:00 AM	4:30 PM	12:34 PM	4:39 PM		3:30
2/27/17	8:00 AM	4:30 PM	9:27 AM	4:39 PM		1:15
2/28/17	8:00 AM	4:30 PM	10:00	12:55 PM	2:00 PM – 4:30 PM	2:00
3/01/17	8.0 HRS. VACATION		-	-		0:00
3/02/17	12:00 PM	4:30 PM	12:09 PM	4:38 PM		0:00 ⁵³
3/03/17	8:00 AM	4:30 PM	12:47 PM	1:25 PM	1:30 PM– 4:00 PM	3:45

While the CTA did not produce timesheets for the remaining nine weeks Mr. McKennie was employed at the CTA, the tap records showed that he consistently arrived at CTA headquarters after 8:00 AM, often after 9:00 AM, and frequently left CTA headquarters prior to 4:30 PM.⁵⁴ As demonstrated in the table below, for this nine weeks of work, Mr. McKennie:

- took three days of vacation (24 hours) and five sick days (40 hours);⁵⁵
- for 30 days of the 35 days he was reportedly at work, he did not report for a full eight and one half-hour period according to the tap records and accounting for any out of office events;⁵⁶ and
- for the days he was supposed to be working, he was not at work for approximately 58 hours or over seven full days.

Eric McKennie Tap-Event Records Summary (No Timesheets Provided)

Date	First Tap In	Last Tap Out	Time Worked Away	Discrepancy (rounded to nearest 15 min.)
11/30/16	8:24 AM	4:23 PM		0:30

⁵³ Mr. McKennie used 4.0 hours of vacation on March 2, 2017.

⁵⁴ Mr. McKennie's tap records showed that, although his first day at the CTA was on November 28, 2016, his first tap was not until after 2:00 PM on November 29, 2016. Accordingly, the OEIG only evaluated Mr. McKennie's tap records to determine the dates and times that Mr. McKennie was at CTA headquarters starting November 30, 2016 and ending March 17, 2017.

⁵⁵ These benefit time usage numbers are based on approved CTA time entry records. Payroll records, however, reflected that Mr. McKennie was paid for six vacation days and two sick days.

⁵⁶ CTA visitor logs showed that Mr. McKennie reported to HR on November 28, 2016 at approximately 7:39 AM and that he was checked out by the CTA Security Desk at approximately 10:41 PM. Tap records showed that Mr. McKennie's first tap occurred at a Security Test Reader at 2:23 PM on November 29, 2016. In light of the missing or incomplete tap records for these two days, the OEIG presumes that Mr. McKennie worked full eight and one half-hour days on both November 28 and 29, 2016.

Date	First Tap In	Last Tap Out	Time Worked Away	Discrepancy (rounded to nearest 15 min.)
12/1/16	8:13 AM	4:28 PM		0:15
12/2/16	8:30 AM	11:42 AM		4:15 ⁵⁷
12/5/16	9:22 AM	5:05 PM		0:45
12/6/16	9:14 AM	4:27 PM		1:15
12/7/16	9:09 AM	4:24 PM		1:15
12/8/16	9:30 AM	4:28 PM		1:30
12/9/16	9:23 AM	4:46 PM		1:00
12/12/16	9:07 AM	4:12 PM		1:15
12/13/16	3:33 PM	4:27 PM	8:00 AM – 12:30 PM	1:30 ⁵⁸
12/14/16	9:10 AM	5:00 PM		0:45
12/15/16	8.0 HRS. SICK ⁵⁹			0:00
12/16/16	9:10 AM	4:21 PM		1:30
12/19/16	8:46 AM	6:23 PM		0:00
12/20/16	10:00 AM	4:29 PM	8:00 AM – 9:00 AM	0:00
12/21/16	9:55 AM	5:04 PM		1:30
12/22/16	9:47 AM	4:23 PM		1:45
12/23/16	-	-		8:00
12/26/16	CTA PAID HOLIDAY			0:00
12/27/16	8:36 AM	4:30 PM		0:30
12/28/16	10:49 AM	4:42 PM		2:30
12/29/16	8.0 HRS. VACATION			0:00
12/30/16	8.0 HRS. VACATION			0:00
1/2/17	CTA PAID HOLIDAY			0:00
1/3/17	8:33 AM	4:57 PM		0:00
1/4/17	10:08 AM	4:37 PM		2:00
1/5/17	9:52 AM	4:38 PM		1:30
1/6/17	10:12 AM	5:03 PM		1:45
1/23/17	11:19 AM	4:35 PM		3:15
1/24/17	10:07 AM	4:29 PM		2:00
1/25/17	9:38 AM	4:19 PM		2:00
1/26/17	10:01 AM	4:15 PM		2:15
1/27/17	12:16 PM	5:05 PM	9:00 AM – 12:00 PM	0:30
3/6/17	9:40 AM	4:33 PM		1:45

⁵⁷ On December 2, 2016, Mr. McKennie was credited for an hour lunch (half hour unpaid and two paid 15-minute breaks).

⁵⁸ On December 13, 2016, Mr. McKennie was credited for an hour lunch (half hour unpaid and two paid 15-minute breaks), as well as a half hour for travel to and from the offsite event.

⁵⁹ Approved Time Entry records showed that 8.0 hours sick time were entered for December 15, 2016; however, payroll records showed that Mr. McKennie was only paid for 72.0 hours regular time during the two-week period from December 11-24, 2016. Mr. McKennie later received a quick pay payment for additional 8.0 hours vacation time for the period from December 25, 2016 to January 7, 2017 even though he was paid for 80.0, including benefit and holiday time, for that same two-week period. The OEIG presumes the payment for the additional 8.0 hours vacation time was the 8.0 hours on December 15, 2016 that Mr. McKennie was reportedly sick.

Date	First Tap In	Last Tap Out	Time Worked Away	Discrepancy (rounded to nearest 15 min.)
3/7/17	10:48 AM	4:57 PM		2:15
3/8/17	10:08 AM	1:25 PM		5:15
3/9/17	8.0 HRS. SICK ⁶⁰			0:00
3/10/17	8.0 HRS. VACATION			0:00
3/13/17	8.0 HRS. SICK			0:00
3/14/17	8.0 HRS. SICK			0:00
3/15/17	10:27 AM	4:35 PM		2:30
3/16/17	8.0 HRS. SICK			0:00
3/17/17	1:51 PM	3:32 PM	9:00 AM – 1:00 PM	1:30

5. Diversity Department Timesheets

The OEIG also requested timekeeping records for all the other Diversity employees who reported directly or indirectly to Ms. Person at the time of the complaint. The CTA provided timesheets for all weeks from November 28, 2016 to March 17, 2017 for each employee.⁶¹ All the other Diversity employees noted work performed offsite in the comment section of their respective timesheets. The timesheets also reflected various start and end times, often deviating from the CTA's normal administrative hours, rather than showing set 8:00 AM to 4:30 PM schedules for each day of the week. Specifically, other Diversity employees typically reported starting between 7:00 AM and 10:00 AM and ending between 4:30 PM and 6:30 PM. Some individuals even reported working as late as 7:00 PM or 8:00 PM, or later.

6. Email Reminders to Complete Timesheets

A review of Mr. McKennie's emails also showed that various individuals reminded Mr. McKennie to submit timesheets. Mr. McKennie was emailed a copy of the timesheet template to use to report his time by [Employee 2] and [identifying information redacted], [Employee 1], on December 19, 2016 and January 13, 2017, respectively. [Employee 1] emailed reminders to all Diversity employees, including Mr. McKennie, to turn in timesheets for workweeks ending on January 13, 20, and 27, 2017, February 3, 10, and 17, 2017, and March 10, 2017. [Employee 1] also emailed an individual reminder to Mr. McKennie to submit a timesheet for the workweek ending on March 3, 2017.

7. Interview of Chief Administrative Officer Thomas McKone

During his OEIG interview, the OEIG asked Mr. McKone about his knowledge of any timekeeping or performance issues with respect to Mr. McKennie. Mr. McKone stated that Ms. Person told him that she was not seeing the level of proactive outreach that she was hoping to get from Mr. McKennie and she was having issues with Mr. McKennie's timekeeping and attendance.

⁶⁰ For the pay period of March 5-18, 2017, although the approved time entries showed that Mr. McKennie used 32.0 hours of sick time and 8.0 hours of vacation time, payroll records reflected that Mr. McKennie was paid for 16.0 hours of sick time and 24.0 hours of vacation time.

⁶¹ [Redacted identifying information.]

Mr. McKone confirmed that CTA employees have a set number of hours per week that must be worked. He stated that standard work hours at CTA headquarters were from 8:00 AM to 4:30 PM, but he clarified that the Diversity Department had a little more flexibility because of the nature of the events its staff attended. Mr. McKone also confirmed that CTA employees are to document work performed offsite in the comments section on weekly timesheets. He stated that he occasionally reminded his managers to conduct periodic checks on timesheets and tap records. Mr. McKone stated that Mr. McKennie, like the rest of the Diversity team, would have had set hours and was required to document the hours worked on weekly timesheets. Mr. McKone also confirmed that Mr. McKennie was required to tap in and tap out of the CTA building each day he worked.

Mr. McKone told OEIG investigators that in January or February of 2017, Ms. Person conveyed to him that she was concerned that Mr. McKennie's timesheets did not reflect the time Mr. McKennie was actually in the office. Specifically, Ms. Person noticed that Mr. McKennie was filling in the same start and end time every day on his timesheets even though she knew or was suspicious that he was not coming in or leaving at that time. According to Mr. McKone, he advised Ms. Person to remind Mr. McKennie of the CTA's policies and assumed that Ms. Person did so. Mr. McKone stated that about a month later, Ms. Person approached him (Mr. McKone) a second time about Mr. McKennie not accurately completing his timesheets. Mr. McKone advised Ms. Person at that time to talk to Mr. McKennie and HR to see what actions she could take to rectify the situation. Mr. McKone was not sure whether Ms. Person actually spoke to HR, and he confirmed that Mr. McKennie left the CTA shortly after this second conversation. Mr. McKone did not know whether these timekeeping issues had anything to do with Mr. McKennie's departure from the CTA, but he agreed that the timing seemed to indicate a correlation between these events.

8. Mary Person's Statements Concerning Eric McKennie's Timekeeping and Performance

During Ms. Person's second interview on March 16, 2018, when asked about Mr. McKennie's job performance while employed at the CTA, Ms. Person stated that she had no recollection of any conversations with Mr. McKennie regarding any issues. However, she stated if she did have issues, she would have spoken to Mr. McKone and Mr. McKennie. She also stated that if someone said she talked to Mr. McKennie, then she probably did.

When asked about Mr. McKennie's missing timesheets, Ms. Person stated that Mr. McKennie would have had to have submitted timesheets in order to get paid, and that she was not sure how anyone could have been paid without submitting timesheets. When asked about whether she ever observed that Mr. McKennie's swipe records did not match up with the time he reported on the timesheets he did submit, Ms. Person stated she could not recall. However, she indicated that if the OEIG had information that she addressed timekeeping issues with Mr. McKennie, then she probably did.⁶²

⁶² The OEIG's review of Ms. Person's emails reflected that Ms. Person requested Mr. McKennie's tap data from the CTA's chief internal auditor in late February 2017. Upon receiving the information, Ms. Person forwarded it to [Employee 1] to audit as part of Mr. McKennie's 90-day performance feedback.

Ms. Person denied that she treated Mr. McKennie differently from other employees because of his political connection and stated that she was not told to treat him any differently because of his political connection.

9. Eric McKennie's Statements Regarding his Attendance, Timekeeping, and Role at the CTA

During his OEIG interview, Mr. McKennie told investigators that while at the CTA, he was part of a team that managed projects and outreach. When asked what types of projects he was involved in managing, he stated that the only project he could recall was the 95th Street Station project. When asked what type of outreach work he did while at the CTA, he stated that the City of Chicago and the CTA are notorious for not sharing contract opportunities with the Black community so his work involved setting up events so minorities were aware of upcoming contract opportunities at the CTA. He could not recall how many events he participated in while working at the CTA. Mr. McKennie said he eventually left the CTA because he had no interest in the work the CTA did.⁶³

Mr. McKennie acknowledged that he worked at CTA headquarters while working for the CTA and that he was issued an identification card, which he used to gain access to and exit from CTA headquarters. Mr. McKennie also confirmed that he had a set work schedule at the CTA, but he could not recall what it was. He then clarified that he had some flexibility in his work schedule because he needed to spend some time in the community. When investigators asked Mr. McKennie whether he documented the work outside of his set schedule on his CTA timesheets, he responded that he could not recall. When specifically asked if he completed timesheets while working at the CTA, Mr. McKennie responded that the CTA has timesheets. When asked again, Mr. McKennie stated that he was not very good with computers so he “never really got the hang of the timekeeping.”⁶⁴ When asked a third time whether he completed timesheets while working at the CTA, Mr. McKennie stated he could not recall.

When asked how he would have received pay from the CTA if he had not completed timesheets, Mr. McKennie did not have an answer. He suggested, however, that someone else could have completed timesheets for him, although he did not know who would have done so. Mr. McKennie could not recall whether he signed any timesheets while working at the CTA. He acknowledged however, that tap records should correspond with the time reported on timesheets.

IV. ANALYSIS

A. The CTA's Hire Of Eric McKennie Did Not Violate AP 151

⁶³ Mr. McKennie resigned from the CTA on March 20, 2017, effective that day. Tap records showed that, on March 20, 2017, Mr. McKennie arrived at CTA headquarters at 10:30 AM and left at 11:16 AM. Mr. McKennie was not paid for this day.

⁶⁴ In reviewing Mr. McKennie's IDOT personnel file as part of the investigation of his hire, investigators discovered that in April 2013, Mr. McKennie was charged with violations of various IDOT timekeeping policies for having several undocumented absences without providing the required corresponding time off requests. Mr. McKennie served a two-day suspension for these violations.

The CTA's hiring policy, AP 151, generally provides consistent and uniform hiring procedures to ensure the selection of the most qualified individuals and ensure compliance with all applicable state and federal laws. Under this policy, however, the Vice President of HR has the authority to bypass the job posting requirements outlined in AP 151 if he determines it to be in the best interest of the CTA. The policy also authorizes CTA Executives to explore career opportunities and interview applicants for positions at or above Salary Band I outside the CTA's uniform hiring procedures and directly hire an individual if the individual meets all the job qualifications.

The CTA's hire of Mr. McKennie bypassed several hiring procedures outlined in AP 151. Nonetheless, Mr. McKone, Chief Administrative Officer, determined that Mr. McKennie was qualified for an outreach position and suggested to [Employee 7], who ultimately approved, that Mr. McKennie be directly hired into the Salary Band I Project Consultant – Diversity position, as permitted by AP 151. Although the CTA did not finalize the Project Consultant – Diversity position description until after Mr. McKennie resigned from the CTA, per this description, the position required a bachelor's degree, plus three years relevant experience with DBE programs, or a combination of education and relevant experience. Based on a review of Mr. McKennie's resume it would appear that Mr. McKennie met those experience requirements, having worked seven years in IDOT's Office of Business and Workforce Diversity. Accordingly, the OEIG concludes that the CTA's hire of Mr. McKennie did not violate AP 151, and thus this allegation is **UNFOUNDED**.

B. The CTA's Hire Of Eric McKennie Violated The MTA Act

Although CTA policies do not require that the CTA follow a standard hiring process for certain higher-level employees, classified as Salary Band I or above, the CTA must still adhere to Section 28 of the MTA Act, which prohibits discrimination in hiring on the basis of political affiliations. Based on its investigation, the OEIG concludes that there is reasonable cause to believe that the CTA's direct hire of Mr. McKennie into the Project Consultant – Diversity position was politically motivated, which is contrary to the principles of the MTA Act.

There is little doubt that Mr. McKennie is politically connected. Although the OEIG was unable to confirm whether Mr. McKennie was in fact legally married to State Senator Lightford, CTA employment and public records indicate that Mr. McKennie and Senator Lightford reside in the same household. Further, based on OEIG witness interviews of Mr. McKone and Mr. Nichols, Mr. McKennie holds himself out as being married to Senator Lightford. Despite Mr. McKennie's insistence that he could not recall whether he knew anyone named Mr. Nichols, Mr. Nichols specifically told the OEIG that he had known Mr. McKennie since the mid-1990s—over 20 years—and that he knew Mr. McKennie's wife, Senator Lightford. Likewise, according to Mr. McKone, Mr. McKennie happened to mention he was married to Senator Lightford during their initial meeting in September 2016. Clearly, Mr. McKennie did not try to conceal his relation to a state legislator. Further, Mr. McKennie himself has a history of community and political involvement, as he ran for Alderman in the City of Chicago's 37th Ward in 2007, and currently serves on the Village of Maywood Economic Development Commission, an appointed position.

In addition to his political connections, the conflicting statements regarding, and records

of, Mr. McKennie's hire raise significant questions as to why Mr. McKennie ended up in a newly created Project Consultant – Diversity position, which had essentially the same duties as an open Diversity Specialist position, but bypassed the CTA's hiring standards and was paid a much higher salary. Specifically, Mr. Nichols told the OEIG that in the fall of 2016, he had a chance encounter with Mr. McKennie wherein Mr. McKennie told Mr. Nichols he was looking for work and Mr. Nichols advised Mr. McKennie to send him his (Mr. McKennie's) resume. Mr. Nichols said that after Mr. McKennie sent his resume, Mr. Nichols checked the CTA's website and found a job posting for a DBE Manager position. According to Mr. Nichols, he advised Mr. McKennie to apply for the DBE Manager position, and he then spoke to Mr. McKone and Ms. Person about Mr. McKennie and emailed them Mr. McKennie's resume. Based on the CTA records provided, however, there were no job postings, (and never a manager position) for the Diversity Department at the time Mr. Nichols emailed Mr. McKennie's resume.

Mr. McKennie's version was that he must have applied for a position but could not recall what position, whether he filled out an application, or who he interviewed with. Furthermore, Mr. McKennie could not even tell the OEIG if he knew of a person named Gerald Nichols, could not recall speaking with anyone at the CTA by that name, and said he had no idea how Mr. Nichols obtained his (Mr. McKennie's) resume.

Ms. Person suggested that Mr. McKennie applied for a posted position that was likely the Diversity Specialist position. According to Ms. Person, she interviewed candidates, and Mr. McKennie was selected as the number one candidate. The records, however, show that no candidate was interviewed for the Diversity Specialist position, nor were there any records of Mr. McKennie having applied for a posted position, having been scored, or determined to be a top-ranked candidate. Furthermore, [Employee 3], who participated in the meeting with Mr. McKennie and Ms. Person, confirmed that there was no interview panel, no structured questions, and no consensus meeting.

Ms. Person also claimed, around the time of Mr. McKennie's hire, she had discussions with Mr. McKone about elevating a Diversity Outreach position to a manager position. Ms. Person drafted a position description for Manager, Diversity Program Outreach and sent it to Mr. McKone for his review *after* having met with Mr. McKennie. Mr. McKone, on the other hand, said that he did not recall discussing anyone managing a Diversity outreach team and that he had concerns about the unit being overmanaged.

Mr. McKone initially told investigators that the decision to hire Mr. McKennie as a Project Consultant in the Diversity division was jointly made between him and Ms. Person. Ms. Person, however, stated that she was not involved in extending an offer of employment to Mr. McKennie, she thought she would have learned that he was hired as a Project Consultant days before he started employment in November, and she denied any involvement in the creation of the Project Consultant position description. Upon review of the hiring documents, Ms. Person stated that it appeared she did not have a say in Mr. McKennie's hire. Ultimately, Mr. McKone acknowledged that he made the decision to hire Mr. McKennie as Project Consultant – Diversity.

More troubling than the conflicting accounts, is the fact that the Project Consultant – Diversity position did not exist at the time Mr. McKennie interviewed for a job. A draft position

description for a manager position in Diversity was circulated on October 11, the very day Mr. McKennie was offered a job. This same position description, except for the title and date, ultimately became Mr. McKennie's position description after he left employment. Mr. McKennie's position description was virtually the same as the Diversity Specialist position that was posted at the same time Mr. McKennie was being considered. The one additional responsibility for the Project Consultant – Diversity position related to the general supervision of outreach staff, a responsibility which Ms. Person indicated in her first interview justified a higher salary comparable to what other managers in the department were making. Notwithstanding this justification, as Project Consultant, Mr. McKennie never managed anyone while at CTA, and during his OEIG interview, Mr. McKone said he had concerns about the Diversity Department being overmanaged and that Project Consultants do not typically manage others. This management component, which Mr. McKennie never performed and was not contemplated by Mr. McKone, was the only difference from the Diversity Specialist position and was used to justify paying him over \$20,000 more than what his job duties actually warranted. It does not seem to be in the CTA's best interest to hire someone for a role when another individual, who was just as qualified, would have performed the functions of that role for \$20,000 less.

Mr. McKone maintained that the Project Consultant – Diversity position was the right position for Mr. McKennie given his experience and the need to have a higher-level position. He added that the decision to bring Mr. McKennie on as a direct hire was made to save time. He also stated that the hire of Mr. McKennie for the Project Consultant – Diversity position was in the best interest of the CTA, explaining that the DBE community is relatively small and that it is rare to find individuals with Mr. McKennie's experience with DBE programs. The records, however, show otherwise. There were 112 applicants for the Diversity Specialist position received during the time frame that Mr. McKennie was being considered for a position at the CTA. At least five of the applicants appeared to meet the minimum education and experience requirements of the Diversity Specialist position, and at least two of those qualified applicants also had management experience. No interviews of the 112 applicants, however, were ever conducted for that position. Even if the decision had been made that a manager position was more needed in Diversity than a Diversity Specialist position, the two applicants with management experience were not given the same opportunity as Mr. McKennie to interview for and apply for the higher salary Project Consultant position. The fact that other qualified candidates were not given the same consideration suggests there were other motives for hiring Mr. McKennie aside from his prior work experience. When asked, Ms. Person had no explanation for why other qualified applicants were not given the same opportunity to apply and interview for the Project Consultant position offered to Mr. McKennie. According to Mr. McKone, Mr. McKennie would not have applied for the Diversity Specialist position because it was a much lower position, requiring only three years of relevant experience. As the records show, however, both positions had identical education and experience requirements, both requiring a bachelor's degree, plus three years relevant experience with DBE programs, or a combination of education and relevant experience.

While the OEIG is not suggesting that the CTA had to hire for the Project Consultant – Diversity position in accordance with the procedures described in AP 151, the facts in this case indicate that a position was made for Mr. McKennie, even though an equivalent position had been posted that required standard hiring procedures be followed and that equally qualified candidates had applied for but were not considered. Rather, the CTA directly hired Mr. McKennie into a

position that did not previously exist and for which there was no finalized position description until after Mr. McKennie left CTA employment. The CTA received several qualified applications with DBE experience in response to the posted Diversity Specialist position, a position Ms. Person purportedly believed Mr. McKennie applied for when she first interviewed him, which was substantially similar to the Project Consultant – Diversity position. The only meaningful difference between the two positions were additional management duties, used to justify a higher salary, but which Mr. McKennie never performed. Together, all these circumstances establish reasonable cause to believe that the CTA’s hire of Mr. McKennie was not predicated on Mr. McKennie’s prior DBE experience or the desire to select the most qualified individual for the position; rather, Mr. McKennie’s distinguishing feature was his political connection.

The CTA’s direct hire of Mr. McKennie unfairly discriminated against the Diversity Specialist applicants who met the identical qualifications requirements for both the Project Consultant – Diversity and Diversity Specialist positions but who did not have Mr. McKennie’s political connections. These individuals did not have a direct line to Mr. Nichols, who at the time oversaw legislative affairs and government relations, and were never given the opportunity to apply and interview for the higher paying position. In the context of examining claims of allegedly improper employment actions on the basis of “political affiliation,” courts have recognized that the First Amendment’s protection extends to the right of “nonaffiliation,” i.e., an employee’s right to *not* associate with a political party, candidate, or ideology.⁶⁵ Such were the rights of the Diversity Specialist candidates here who, at least on the face of their applications, were “apolitical,” and thus not offered higher salaries for jobs specifically created for them.

Because there is reasonable cause to believe that the above actions amounted to discrimination against Diversity Specialist applicants, the allegation that the CTA’s hire of Mr. McKennie violated Section 28 of the MTA Act is **FOUNDED**.⁶⁶

As Chief Administrative Officer, Mr. McKone was responsible for overseeing the CTA’s HR Department, as well as the administration of the CTA’s hiring practices. Because Mr. McKone acknowledged that he ultimately made the decision to hire Mr. McKennie as Project Consultant –

⁶⁵ See, e.g., *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (holding that the practice of dismissing public employees because of partisan affiliation or nonaffiliation is unconstitutional under the First and Fourteenth Amendments); *Branti v. Finkel*, 445 U.S. 507, 516-17 (1980) (recognizing that “the First Amendment prohibits the dismissal of a public employee solely because of his private political beliefs”); *Rutan v. Republican Party of Illinois*, 497 U.S. 62, 76 (1990) (stating that “[t]he First Amendment prevents the government, except in the most compelling circumstances, from wielding its power to interfere with its employees’ freedom to believe and associate, or to not believe and not associate”); *Yahnke v. Kane County, Illinois*, 823 F.3d 1066, 1070 (7th Cir. 2016) (citing *Branti* for the proposition that the plaintiffs can prevail in a First Amendment retaliation claim by proving that they were dismissed solely for the reason that they were not affiliated with a particular political party); *Hermes v. Hein*, 742 F.2d 350, 353 n.3 (7th Cir. 1984) (citing *Elrod* and *Branti* and stating “[i]t is undisputed that political nonaffiliation is a right protected under the first amendment”); *Libertarian Party of Indiana v. Packard*, 741 F.2d 981, 989 (7th Cir. 1984) (noting that the *Elrod* Court reasoned that a city government could not discharge or threaten to discharge its employees solely on the basis of their political affiliation or nonaffiliation); see also *Zerante v. DeLuca*, 555 F.3d 582, 584-85 (7th Cir. 2009) (stating it was undisputed that the plaintiff’s decision to remain neutral in a general election was a protected activity under the First Amendment).

⁶⁶ The OEIG concludes that an allegation is “founded” when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.

Diversity, and the OEIG found no evidence that the hiring decision was made by anyone higher than Mr. McKone, the OEIG is also making an individual finding against Mr. McKone for directing the hire of Mr. McKennie in a manner contrary to the requirements of the MTA Act.

C. Eric McKennie Failed To Follow CTA Attendance And Timekeeping Policy

Per AP 127, non-union, administrative office employees assigned to work at CTA headquarters, like Mr. McKennie, must report for an eight and one half-hour period each work day and must record their exact arrival and departure times for each work day on timesheets. AP 127 also states that if an employee works away from his or her assigned location for all or part of the day, that information should be noted in the timesheet comments section with the time of arrival and departure specified.

The OEIG concludes that Mr. McKennie violated AP 127 by:

- failing to complete timesheets for nine of the 16 weeks of his CTA employment;
- submitting incomplete and inaccurate timesheets for the remaining seven weeks; and
- not working the required eight and one-half hour period on multiple occasions.

The fact that the CTA could only provide seven of the 16 weeks of Mr. McKennie's timesheets strongly indicates that Mr. McKennie regularly failed to submit his timesheets. CTA was able to provide timesheets for all of the other Diversity Program employees for the same time period. Furthermore, a review of Mr. McKennie's emails showed that he was provided a copy of the timesheet template or reminded to complete his weekly timesheets at least 10 separate times. As a former State of Illinois employee and someone who has worked in the public sector for over 15 years, it should have been no surprise to Mr. McKennie that the CTA would require him to accurately document his time spent on CTA business. This is particularly true when, as noted above, Mr. McKennie received a two-day suspension while at IDOT for timekeeping issues.

During his OEIG interview, Mr. McKennie was asked three times whether he completed timesheets while working for the CTA. Each time, Mr. McKennie stated that he could not recall, explaining that he was not very good with computers so he "never really got the hang of the timekeeping." During his OEIG interview, Mr. McKennie suggested that someone else at the CTA could have completed timesheets for him. Regardless of whether someone else completed his timesheets, Mr. McKennie was responsible for ensuring that his completed timesheets were signed by him and submitted, which did not happen more than half of the time. Thus, the allegation that Mr. McKennie violated the CTA's attendance and timekeeping policy, AP 127, by failing to submit timesheets for nine of the 16 weeks he was employed by the CTA is **FOUNDED**.

For the seven weeks that Mr. McKennie did submit timesheets, Mr. McKennie consistently reported working 8:00 AM to 4:30 PM nearly every day he worked, without ever noting any time worked away from CTA headquarters on his timesheets. Although Mr. McKennie recognized during his OEIG interview that tap records should correspond with the time reported on his timesheets, it is clear from Mr. McKennie's tap records, calendar events, and meeting invitations

that Mr. McKennie did not work the hours reported on his timesheets. In fact, by the OEIG's estimations, Mr. McKennie overreported the total time he worked on CTA business by more than 46 hours during this seven-week period. Thus, the allegation that Mr. McKennie violated AP 127 by failing to record his accurate start and end times, as well as time spent working away from CTA headquarters, on his CTA timesheets is **FOUNDED**.

Finally, in addition to the approximately 46 hours Mr. McKennie overreported working on his CTA timesheets, for the nine weeks that Mr. McKennie did not submit timesheets, accounting for any time off and time worked outside of CTA headquarters, tap records showed that Mr. McKennie was neither at his worksite or attending to CTA business for approximately 58 hours or approximately seven days. In total, tap records showed that during the 57 days Mr. McKennie was supposed to be working, Mr. McKennie did not report for a full eight and one half-hour period for 51 of those days. The OEIG therefore concludes that the allegation that Mr. McKennie violated AP 127 by consistently failing to report for the required eight and one-half hour period is **FOUNDED**.

V. FINDINGS AND RECOMMENDATIONS

As a result of its investigation, the OEIG concludes that there is **REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDINGS:**

- **UNFOUNDED** – The CTA's hire of Eric McKennie did not violate CTA Administrative Procedure 151.
- **FOUNDED** – The CTA's hire of Eric McKennie violated Section 28 of the MTA Act.
- **FOUNDED** – Thomas McKone directed the hire of Eric McKennie in a manner that contravenes the requirements of the MTA Act.
- **FOUNDED** – Eric McKennie violated CTA Administrative Procedure 127 by failing to submit timesheets.
- **FOUNDED** – Eric McKennie violated CTA Administrative Procedure 127 by failing to record accurate information on his timesheets.
- **FOUNDED** – Eric McKennie violated CTA Administrative Procedure 127 by failing to report for an eight and one half-hour period each day.

The OEIG recommends that the CTA review its hiring practices and procedures with respect to positions with a classification of Salary Band I and above, including exempt, at-will positions, to ensure that all hiring is in keeping with the requirements of the MTA Act prohibiting discrimination. The OEIG recommends taking whatever action the CTA deems appropriate with regard to Mr. McKone.

Because Mr. McKennie no longer works for the CTA, the OEIG recommends that a copy of this report be placed in his permanent personnel file and that he not be rehired in the future.

No further action is necessary and this matter is considered closed.

Date: **June 19, 2018**

Office of Executive Inspector General
for the Agencies of the Illinois Governor
69 West Washington Street, Ste. 3400
Chicago, IL 60602

By: **Diana Villamil Zuver**
Deputy Inspector General

Daniel Bohaczyk
Investigator III



TO: Executive Ethics Commission

FROM: Karen Seimetz
General Counsel, Law Department

DATE: January 11, 2019

RE: OEIG Case No. 17-00162– FINAL REPORT RESPONSE

The above-referenced final report (Final Report) involves allegations that the Chicago Transit Authority (CTA) and Chief Administration Officer Mr. McKone hired former CTA employee Eric McKennie because of his political affiliation. The Final Report also involves allegations that Mr. McKennie violated CTA attendance and timekeeping policies and procedures.

While CTA concurs with the timekeeping violations and, in fact, had acted upon them long before the OEIG commenced its investigation, CTA vehemently disagrees with the OEIG's finding that Mr. McKennie was hired for his political affiliation. Similarly, CTA vehemently disagrees that it or Mr. McKone violated Section 28 of the Metropolitan Transit Authority Act (MTA Act) in doing so. This is CTA's response to the Final Report.

Summary

CTA takes very seriously the obligations and prohibitions in its hiring policy and procedures, which are contained in Administrative Procedure 151 (AP 151) promulgated in 2008. AP 151 expressly prohibits discrimination in hiring, including discrimination based on political affiliation, and prohibits all CTA departments from violating any state or federal laws in connection with hiring. As required by AP 151, CTA and Mr. McKone complied with all laws and followed AP 151 in hiring Mr. McKennie.

Mr. McKennie was considered by Mr. McKone and hired by CTA solely on his qualifications, which were extensive and unique to the role of diversity outreach in CTA's Diversity Department. The evidence establishes and the OEIG does not disagree that Mr. McKennie was eminently qualified for the Project Consultant position into which he was hired to manage outreach to Disadvantaged Business Enterprises (DBEs) and to network with prime and subcontractors. In addition to community outreach experience in a prior role for the City of Chicago, Mr. McKennie had just concluded seven years of experience working for the Office of Business and Workforce Diversity (OBWD) for the Illinois Department of

Transportation. That office, like CTA's Diversity Department, engages in outreach to small businesses and networking with DBEs.

The OEIG determined that Mr. McKone and CTA followed the procedures in AP 151. Notwithstanding adherence to CTA's hiring procedures and Mr. McKennie's qualifications in the diversity/DBE space that made him the most qualified candidate for the role into which he was hired, the OEIG nevertheless, with no supporting evidence whatsoever, concluded that Mr. McKennie's hire occurred because of his alleged political affiliation. This alleged political affiliation came from some online research the OEIG did indicating that Mr. McKennie was living with Senator Kimberly Lightford at the time of his hire by CTA. The OEIG was unable to ascertain if they were married.

The OEIG apparently never interviewed Senator Lightford to ask about Mr. McKennie or CTA. Even more curious, while the OEIG interviewed Mr. McKennie, their interview notes never mention Senator Lightford's name. They did not ask him about the nature of their relationship. They did not ask him if Senator Lightford played any role in his hire by CTA, if she had spoken to anyone at CTA on his behalf, or if she was even aware of his hiring by CTA. Moreover, the OEIG investigation found no evidence of any political influence or pressure to hire Mr. McKennie and developed no evidence whatsoever of any connection between CTA and Senator Lightford. The only takeaway, frankly, is that individuals who are affiliated with elected officials in any capacity, however qualified in their field, are not permitted to be hired by the State or other governmental agencies because doing so will raise the specter of their so-called "political affiliation".

CTA respectfully requests for these reasons, and its response below, that the Executive Ethics Commission (EEC) refrain from publishing the Final Report. The Final Report is completely lacking in evidence to support the conclusions the OEIG has drawn, conclusions which unjustifiably damage the reputations of the CTA, Mr. McKone, and others.

Mr. McKennie's Hire

The CTA hired Mr. McKennie on November 28, 2016. Mr. McKennie left CTA's employ less than four months later on March 20, 2017. Mr. McKennie was a direct hire into the position of Project Consultant – Diversity in the Diversity Department. This role managed responsibilities which had not previously been assigned to just one person but which were instead shared across the Department. The role was focused on the task of managing outreach to and development of relationships with small businesses or DBEs.

CTA hired Mr. McKennie with the expectation that he would focus exclusively on enhancing the pool of DBEs, with CTA's goal being to maximize DBE participation on its contracts. Because of the importance of this endeavor, and the more robust staffing that CTA's upcoming large-scale construction projects would require, CTA established an at-will Project Consultant position to manage DBE outreach. The creation of new positions to address an agency need is allowable under CTA's hiring procedures and is done in CTA's regular course of business. It was this position into which Mr. McKennie was hired.

As the OEIG itself acknowledges, Mr. McKennie had extensive outreach experience. The OEIG mistakenly concluded that Mr. McKennie did not have any DBE experience, but Mr. McKennie joined the CTA after working for seven years for the State of Illinois in its

Department of Transportation and, specifically, in its OBWD. The OBWD, like CTA's Diversity Department, engages in outreach to and networking with DBEs by providing supportive services and events geared toward introducing both prime and subcontractors to DBEs. While working at the OBWD, Mr. McKennie acted as a liaison between the OBWD Director and other state and local agencies, served as OBWD spokesperson, and coordinated bureau activities. Mr. McKone informed the OEIG that the pool of candidates in the DBE space is small, and there are not a large number of individuals who are familiar with DBE programs and outreach. The OEIG has never disputed that fact. Mr. McKone's assertion is borne out by the results of the job posting for the lower level Diversity Specialist position; namely that—by the OEIG's own assessment—only five of 112 applicants appeared to meet the bare minimum education and experience requirements for the entry level DBE position and only two of the five had any management experience.

The OEIG's Findings

Thirteen months after Mr. McKennie left CTA's employ, the OEIG issued its Final Report. In the Final Report, the OEIG determined that CTA and its employees complied with CTA's hiring policies (AP 151) in hiring Mr. McKennie. However, despite finding compliance with those policies which prohibit discriminating against applicants based on political affiliation, the OEIG determined that CTA and Mr. McKone, violated Section 28 of the MTA Act, which prohibits hiring based on "political affiliation." 70 ILCS 3605/28. The OEIG apparently did so based solely on Mr. McKennie's apparent co-residency with State Senator Kimberly Lightford.

The OEIG also determined (as had CTA prior to receiving the Final Report) that Mr. McKennie failed to submit timesheets documenting that he was working eight and half hours per day.

CTA of course agrees with the OEIG's conclusion that Mr. McKennie failed to complete time sheets accurately in the short period that he worked at CTA, a significant failure on Mr. McKennie's part. CTA's timekeeping policies were enforced against Mr. McKennie just as they would be for any other employee. Mr. McKennie's supervisor brought the inadequacy of his timesheets to his attention in December 2016, well before the CTA had any knowledge of an OEIG investigation. Mr. McKennie's supervisor continued to audit Mr. McKennie's timesheets and follow up with him on the need to work for eight and a half hours per day and document his time on a daily basis. Mr. McKennie's supervisor was continuing to follow up with Mr. McKennie on his time sheets until Mr. McKennie resigned without notice on March 20, 2017. CTA was prepared to discipline or terminate Mr. McKennie, again, just as it would any other CTA employee, when Mr. McKennie abruptly resigned.

However, CTA strongly disagrees with the OEIG's other conclusions, those being that CTA and Mr. McKone violated Section 28 of the MTA Act insofar as Mr. McKennie was hired for his "political affiliation." In reaching this conclusion, the OEIG appears to rely primarily on its research that, while it "could not confirm whether Mr. McKennie and Senator Lightford were in fact legally married," it determined from online research and other documents that Mr. McKennie shared a residence with Senator Lightford..." (FR at p. 2, n. 8).

In reaching its conclusion that Mr. McKennie was hired because of his relationship with Senator Lightford, the OEIG ignored evidence to the contrary, namely that Mr. McKennie had outreach experience in the DBE space working for the Department of Transportation for the State of Illinois. As further discussed below, CTA needed to hire an individual for the specific responsibility of DBE/small business outreach, a need that did not diminish when Mr. McKennie departed. Second, it seems unlikely that, if CTA hired Mr. McKennie for a political affiliation, the CTA would have enforced against him the same timekeeping rules and regulations it applies to all CTA employees.

As discussed further below, CTA's hire of Mr. McKennie was, as the OEIG determined, in accordance with CTA's hiring policy, a policy that allows for direct hires in certain circumstances and which prohibits hiring based on political affiliation.

The OEIG Determined that CTA and Tom McKone Complied with CTA's Hiring Procedures (AP 151)

CTA's hiring policy is contained in AP 151, which is designed to select the most qualified candidates and which prohibits hiring that violates state or federal law, including those which prohibit discrimination based on political affiliation. AP 151 allows the direct hiring of exempt positions at or above a specific level at the discretion of a CTA department head and as agreed to in the interests of CTA by the Vice President of Human Resources. Under AP 151, direct hire positions are not posted nor are they required to follow the standard hiring processes and procedures so long as the VP of Human Resources and the Department Head approve. In the case of a new position, AP 151 states that the CTA department head will work with Human Resources to create a job description. Mr. McKennie was hired as a Project Consultant under the direct hire procedure contained in AP 151. The OEIG noted that CTA had previously hired at least seven other Project Consultants through the same direct hire process followed for Mr. McKennie, but raised no objection concerning the process by which those individuals were hired. (FR at p. 5).

At the time of Mr. McKennie's hire, it is undisputed and all the witnesses testified that CTA had a need for someone with Mr. McKennie's qualifications and experience who could take on the primary role for CTA's DBE outreach efforts. Prior to the creation of the Project Consultant – Diversity position for outreach and Mr. McKennie's hire, everyone in the Diversity Department shared the outreach responsibility and participated in outreach activities in addition to their other primary DBE responsibilities. However, this parsing out of outreach responsibilities, in addition to the other DBE responsibilities handled by Diversity employees, was not sustainable over the long term. In addition, CTA was moving forward on large-scale construction projects that compelled much more and immediate attention on outreach and would require not just an outreach manager, but a team. Diversity outreach entails working with small businesses to enhance the pool of certified DBEs well in advance of work beginning on construction contracts, with CTA's goal being to maximize DBE participation on all its contracts. It entails creating events and opportunities for such small businesses to become certified as DBEs and to network with prime and subcontractors. It requires community knowledge and the ability to work with community organizations and elected officials. It was envisioned by the then-Director of the Diversity Department, Mary Person, and Mr. McKone that a Diversity outreach team would be required to support the upcoming large construction projects and that someone would be needed to manage the team.

The Trading of an Open Diversity Specialist Position to a Project Consultant Position For Outreach Was Proper under AP 151

At the time of Mr. McKennie's hire, there was an open posting for a Diversity Specialist position, a lower level position than the Project Consultant position that was created for outreach. That position was subsequently traded to the Project Consultant - Diversity position, and Mr. McKennie was directly hired into that position. The direct hire approach, which AP 151 allows and which the OEIG did not find any fault with, matches a single person and his or her demonstrated skills to a need within the CTA.

In contrast, the lower level Diversity Specialist position—had it not been traded—would have been filled using the standard hiring processes and procedures identified in AP 151. Under the standard processes and procedures, certain job duties and general qualifications were identified, the job opening was posted, and the application process was open to anyone who was interested in applying.

Mr. McKennie never applied for the lower level position. Mr. McKone correctly indicated that it would have been out of place if he were to do so since his experience and qualifications far exceeded the posting requirements (FR at p. 14). Mr. McKone and Ms. Person nonetheless had previously identified a CTA need, that being someone to manage outreach, which Mr. McKennie was more than qualified to address. Mr. McKone and the VP of HR each properly determined that Mr. McKennie should be hired under the direct hire process identified in AP 151. In addition, CTA subsequently followed the proper and established protocol for trading the lower level position of Diversity Specialist up to a higher level position of Project Consultant. It should be noted that the trading function is not exclusively the decision of one individual. As noted in CTA employee interviews, a CTA committee is responsible for authorizing any job position trading after assessing department needs, budgets, and other factors. That is precisely what occurred in this case.

However, despite Mr. McKennie's distinguishable background, experience, and skills, the OEIG seems to conclude that CTA should have given interviews, or some form of additional consideration, to the pool of applicants that had applied for the lower level position, all but two of which were deemed not qualified on initial screening even for that lower level position. The OEIG reaches this conclusion while somehow simultaneously concluding that Mr. McKennie's hire complied with the direct hire provisions of AP 151, provisions that do not require certain processes and procedures like posting the position or interviewing an applicant pool.

These two conclusions are inherently contradictory and mutually exclusive. In this Final Report, the OEIG's conclusions, taken together, declare that CTA complied with its policy which expressly did not require posting or interviewing an applicant pool (FR at p.28) but that CTA acted improperly by not posting it or interviewing for it, specifically regarding applicants who had applied but were found not qualified for the lower level position (FR at p. 30).

Events Occurring After Mr. McKennie's Departure Show that the Position was Not Created For Mr. McKennie

The OEIG's apparent conclusion that a job was created for Mr. McKennie because of his political affiliation is also belied by what occurred after Mr. McKennie left CTA's employ. The Project Consultant position vacated by Mr. McKennie was filled in an Acting Capacity within one month of his departure, reaffirming CTA's goal of having one person dedicated to managing outreach. That individual received the exact same salary that Mr. McKennie was earning in the position. Also like Mr. McKennie, the individual has outreach experience and, as anticipated, is forming a team for outreach with an Outreach Coordinator position now under that role's supervision, effective February 2018. Thus, the OEIG's supposition that the CTA elevated the job and, by extension, Mr. McKennie's salary based purely on his political affiliation and not the needs of CTA is wholly without basis and is belied by what occurred after Mr. McKennie left CTA.

An Individual Cannot Violate Section 28 of the Metropolitan Transit Authority Act

Mr. McKone, the VP of HR, and other CTA personnel acted in compliance with CTA's hiring policies and procedures (AP 151) in the hiring of Mr. McKennie. The OEIG agreed. In addition to the OEIG's disregard of this evidence and of Mr. McKennie's qualifications in forming its erroneous conclusions, the OEIG's conclusion that Mr. McKone individually violated Section 28 of the MTA Act also is legally without merit. The OEIG's conclusion that an individual violated this section of the MTA Act is also puzzling to CTA since the OEIG, in 2015, agreed with CTA that such a finding could not be made against an individual.

[Reference to unrelated investigation redacted.]

In a nutshell, the MTA Act is enabling legislation that authorizes the CTA, the Chicago Transit Board, and the CTA President to exercise certain powers in the management and oversight of the CTA. Except for three expressly enumerated provisions (none of which are applicable here), the MTA Act does not afford a legal basis for determinations that individuals can be held to have violated its provisions. The same analysis applies in this Final Report with respect to this purported MTA Act "violation" by Mr. McKone.

Conclusion

For all these reasons, the CTA strongly objects to the conclusions of this report that Mr. McKennie's four month employment with CTA was due to a political affiliation. Those conclusions are unfounded, and, as such, CTA respectfully requests that the EEC elect to refrain from publishing the Final Report. Alternatively, in the event that the EEC opts to publish the Final Report, then the CTA requests that the portion of the report determining that Mr. McKone individually violated Section 28 of the MTA Act be deleted or redacted as the OEIG itself has previously agreed such a finding has no legal basis as to an individual.

CTA's Response to the OEIG's Recommendations

The OEIG recommends that the CTA review its hiring practices and procedures with respect to positions with a classification of Salary Band I and above, including exempt, at-will positions, to ensure that all hiring is in keeping with the requirements of the MTA Act prohibiting discrimination.

CTA's current hiring practices and procedures, as documented in AP 151 which include those with respect to Salary Band classification I positions and above, "is designed to grant equal opportunity for employment to all individuals regardless of age, race, color, religion, national origin, gender, sexual orientation, disability, veteran status, or any other classification protected under state and federal law and applicable municipal ordinance." This, by definition, includes the type of discrimination prohibited by the MTA Act, which prohibits "discrimination... in any appointment or promotion to any office, position, or grade of exempt employment because of... political affiliation." CTA will continue to make hiring decisions in a non-discriminatory manner.

The OEIG also recommends taking whatever action the CTA deems appropriate with regard to Mr. McKone.

For the reasons stated throughout this response, CTA believes that Mr. McKone acted properly at all times and will take no action with regards to Mr. McKone.

Because Mr. McKennie no longer works for the CTA, the OEIG recommends that a copy of this report be placed in his permanent personnel file and that he not be rehired in the future.

A copy of a Final Report has been placed in Mr. McKennie's permanent personnel file.

No further action will be taken on this matter and CTA considers this complaint closed.

cc: Nora Leerhsen, CTA Chief of Staff
Colleen Thomas, OEIG

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

RECEIVED

JAN 16 2019

EXECUTIVE ETHICS COMMISSION

IN RE: THOMAS MCKONE

) #17-00162

RESPONDENT'S SUGGESTIONS FOR REDACTION / PUBLIC RESPONSE

Please check the appropriate line and sign and date below. If no line is checked, the Commission will not make your response public if the redacted report is made public.

☒ Below is my public response. Please make this response public if the summary report is also made public; or

☐ Below are my suggestions for redaction. I do not wish for these suggestions to be made public.

6.11
Respondent's Signature

1/11/19
Date

Instructions: Please write or type suggestions for redaction or a public response on the lines below. If you prefer, you may attach separate documents to this form. Return this form and any attachments to:

Illinois Executive Ethics Commission
401 S. Spring Street, Room 513 Wm. Stratton Building
Springfield, IL 62706

Response to OEIG Case #17-00162

The OEIG's conclusion regarding my motivation in hiring Mr. McKennie is wrong. I assumed the role of Chief Administrative Officer (CAO) for CTA in February of 2016 and prior to that, I was the Acting Chief Financial Officer. I have worked at CTA since September, 2012. I have responsibility for numerous departments, including the Diversity Department. I am charged with making sure that the Diversity Department performs expansive Disadvantaged Business Enterprise (DBE) outreach so that small businesses are able to certify as DBEs and all DBEs are given the opportunity to participate on contracts that CTA awards. I am involved in establishing the CTA's overall DBE goal and I report directly to the CTA President and Board of Directors on the numerous investments and outreach efforts we are making to achieve that goal. The CTA has been recognized for our achievements in this field.

In this case, we identified a qualified and experienced individual to enhance our efforts. Following the appropriate hiring procedures, we hired him. The expectations placed on him were no different than any other employee. He was not given any special consideration or opportunities because of a political affiliation. He was hired based on his qualifications and experience in this field. When, a few weeks after his hiring, it came to my attention that he was not completing timesheets properly under CTA's procedures, I told his supervisor to monitor his timesheets like any other employee and make sure that he worked the requisite 8.5 hours per day. I followed up with his supervisor and she consistently followed up with Mr. McKennie on this issue, audited his time sheets, and brought the deficiencies to his attention. This resulted in him leaving the CTA a few months after he was hired.

At no time during the OEIG's investigation and certainly at no time during my interview (which occurred 16 months ago) did the OEIG *ever* advise me that I was the subject or target of an investigation. If they had, I would have terminated the interview and retained an attorney. I was never allowed to or asked to present any evidence on my behalf. The OEIG never even provided me a copy of its final report. I have been denied any semblance of due process. If the OEIG had, in fact, fully considered the evidence it developed, I believe that it would not have made a finding against me:

- (1) Mr. McKennie was qualified for the position he was hired into;

(2) I followed CTA's hiring policies and procedures; and

(3) The position was created to fill a need at the CTA (not for a specific individual), as evidenced by the fact that the position was immediately filled after Mr. McKennie left.

Finally, I adopt the CTA's response and, in particular, the section that states as a matter of law, Section 28 of the Metropolitan Transit Act does not apply to individuals and cannot be used to make findings against individuals.

Thank you for considering this response.